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Action upon the Case
FOR
SLANDER.

OR
A Methodical Collection

under certain Heads,
of Thousands of CASES
Dispersed in the many Great Volumes of the
LAW, of what words are Actionable, and what
not. And of a Conspiracy, and a Libel.

BEING

A Treatise of very great use and consequence
to all men, especially in these times, wherein Acti-
ons for Slander are more common then in times past.

*With an exact Table annexed, for the ready find-
ing out any thing therein.*

By W. Sheppard Esq;.

LONDON,

Printed for Ch. Adams, F. Starkey, & T. Basset
and are to be sold at their Shops, at the Talbot in
Fleetstreet, the Mitre near Temple-Bar, and in
St. Dunstons Church-yard, in Fleetstreet, 1662,

Tr. July
55 1894

Action upon the
FOR
STANDARD
OR
A Methodical Collection

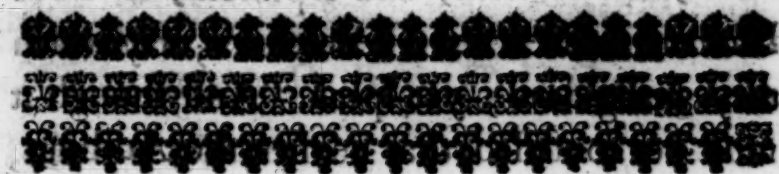
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not, and of Comparatives and Superlatives.

Rec. Mar. 11, 1894.

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Printed for C. & W. Sturges & T. Poffet
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TO THE
Right Honourable the Lord Chief
Justice of the Court of the Kings Bench,
The Lord Chief Justice of the Court of the
COMMON PLEAS,

The Lord Chief Baron of the Court of the
EXCHEQUER:

And the rest of the Reverend Judges of the
same COURTS.

Honourable Lords, and
Reverend Sages of the
LAW,



O whom should I present
this Peece, but to Your
Selves? And of whom
should I begge the Patro-
nage thereof, but of Your
Selves? The Work be-
ing about the LAW, and
nothing else, but the Grave, and Learned Judge-
ments,

The Epistle Dedicatory.

ments, Resolutions, and Opinions, of Your
Eminent and learned Predecessors; By which
they being dead, yet speak. And though it
must be confessed, that neither the Authour,
nor the Work have any thing in them to me-
rit Your Approbation, yet Your Goodness,
and condiscension will be the more eminent, and
singular, in affording both him and it Your
Countenance and Protection, and lay greater
Obligations upon

Your Lordships

most

humble Servant

W. SHEPPARD.

To

To the READER.

Judicious Reader,

I*t is not improbable, but we are fallen into the last age of the World, foretold by our blessed Saviour, Where in the love of many shall wax cold, and Iniquity shall abound. And among the abounding Iniquity of this Age, the iniquity of the Tongue, that little Member, set on fire by Hell, is not the least: And among the evils of the Tongue, is there any more pernicious and deadly, and yet more common and epidemical then Backbiting and Slander? May wee not now say, with the Prophet. Jer. 6. That men walk with Slanders: And with the Royal Psalmist, Psal. 50. Thou sittest, and speakest against thy Brother, and Slandereest thine own Mothers Son. It is true, that in former times, wee finde Actions of the Case for Slanderous words very rarely brought; which speaks thus much, that such words were then very rarely spoken. But in these daies they are become almost as natural to men, as their language and discourse; and therefore the disease, so deeply rooted, and over-spreading, calls for the application of the Remedy, which our Law doth abundantly furnish us withall. And hence it is, I have been encouraged to ingage in this work; which*

To the Reader.

is nothing else but a naked and Methodical Collection of the remedies prescribed by the Law against this Malady. And herein (for brevity sake) you may finde in some Rules in the first, and in some (especially in some of the last) Examples answering to those Rules; in the last Chapter of the Book, an Epitome of the whole work. Wherein we have thought it best to name (amongst others of more Authority) some of the Cases in the Books of uncertain Authors lately published, and leave the same to the Judgement of the Reader. You may, perhaps, finde herein some seeming Impertinencies, Superfluities, Contradictions and vain Repetitions, the which upon mature Deliberation will bee found otherwise. And there will bee, doubtless, by reason of the shortness of time, and haste of the Press, many Erratas of mine and the Printers escaped. But this notwithstanding, I doubt not, but it may bee found very usefull to the ends I have proposed to my self therein, viz. For Lawyers, to lead them to the Cases, that they shall have occasion to look after therein. For others, to teach them to set a watch before the doore of their Lips. And if now you will but cover the Defects of the work, and accept of the pains of the Author, this is all that is desired by your Friend, a lover of his Country, and well wisher to the Laws thereof.

W. SHEPPARD.

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OF THE
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ACTION OF THE CASE.

CHAP. I.

Of an Action of the Case in general.

Action of the
Case.

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An Action of the Case, is a Writ brought against one for an offence done without force, as for not keeping promise, for breaking Trust, for slanderous words, or the like Misdemeanour: And is called an Action of the Case, because the whole Cause of Case, so much as is in the Declaration (save only the time and place) is set down in the Writ: And there is no other Action given in the Case, save only in some few Cases where the Plaintiff hath his choice to bring this or some other Action.

This Action is sometimes about Defamations or Slanders, and this may be by words spoken, or it may be by a deed done. By words spoken, it is either for words spoken against the Title of a mans Land, or for words spoken against the man himself. This Action is in some Cases for other things. And so it is also either for not doing what the man ought to do, or it is for doing of something a man should not do, or it is for doing of something otherwise than he should have done it. This for the not doing of what a man ought to do, is either upon his own undertaking to do it, or it is upon the requiring of Law, without any personal undertaking of his own.

How many
kinds of it
there be

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The Action for Defamation is either for a Defamation by words, where one speaketh any thing to the prejudice of the Life, Estate, or Name of another, or for a Defamation by deed, where one doth any thing that will vehemently imply an Accusation of some great Crime against another. This also is either of great men, called Scandalum Magnatum, or it is of ordinary men. The Action of the Case for deeds, is either upon an Assault, or Promise, or upon a Rulance, upon a Trover, and Conversion, upon

Scandalum
Magnatum.

For Words and
Acts of Slander.

a Deceit, upon a Conspiracy, or it is upon some other Non-feasance, or Wil-feasance. Amongst Slanders and Defamations, also some of them tend to the disgrace of the person of another: Some to the disgrace of the Title of his Land. Those against the person also, do some of them tend to the perill of his life; some to the prejudice of a man in his Libelhood and Estate, and some to his reproach in his Name only. *Co. 4. 92. Sec. Dyer. 8. 72.*

A Defamation may be also by words, as by the doing of something against a man, which will be tantamount, or more than a Slander by words, as to call a man in question, and prosecute a man in a course of Justice, for a supposed Crime, whereof he is innocent, bringing of an Action, &c. *Bull. 3. Part. 372. Co. 4. 14. 15.* If the Lord shall please to give time and strength, we may give you an account of the Law touching this Subject in both, the one after the other.

Some Defamations also may be said to be temporal or civil; as to call one Traitor, Murderer, Thief, Bankrupt, and the like.

Some spiritual, as to call one Adulterer, Baud, Whore, Heretick, and the like.

Sec. 2.

And as to those Slanders called spiritual, no Action will lie in a Civil Court, unless the party slandered have some special loss by them, but the proper place for relief for these is in the spiritual Court; And there are other Slanders that may be said to be civil or temporal. And for these the proper remedy is to be had in the civil or temporal Courts, as for calling Traitor, Thief, Murderer, Bankrupt, and the like. And yet in some cases he may bring his Action at the Common Law for that which he may also have his Remedy in the Ecclesiastical Court; for the Common Law is to be preferred where they stand in equal degree in respect of the matter to be tried. *Mich. 17. Car. 1. B. R. Scyles Regist.*

Fines Law,
185. 43. Ad.
Pl. 381. Jent.
Cent. 1. Case
93.

We might here have distinguished Slanders by publick, and private, or personal: For there is a Slander of the State, as to report any thing about the Affairs thereof that is false, and may be to the prejudice of it, as that the Coin is abased, the Will transported, or the like. And this is punishable upon Indictment by Fine and Imprisonment. But we shall not have to do with this at all. But with private and personal Defamations, which are either of eminent, or common persons.

There are some Slanders by words that are actionable, albeit the party of whom the words are spoken have no special loss by them, and such generally are all the Slanders that bring a man in question for his life, as to call a man Traitor, Murderer, Thief, or the like. And some others, for speaking of things, that if they were true, he might be fined or imprisoned for them.

Whore, Bastard

And there are other Slanders that are not actionable, but in case where the party slandered doth suffer some special loss by them; As to call one Whore, Bastard, or the like. *Cro. 1. 99, 100.*

Treason, Theft.

There are also some slanderous words, that being spoken of any person whatsoever are actionable, as to call a man Traitor, or Thief, or the like. And there are others that will not bear Action, unless they be spoken of some certain men, as Merchants, Trades-men, or the like; as to call a man Bankrupt, or the like. *Goldsb. 126. 84. Cro. 1. 99, 100.*

We shall begin with Actions about words, the which we shall dispatch in this part; and then shall speak to Actions about deeds: And in our labour about words, to open the Law herein, we shall first lay down some general Rules about all kind of Slanders, and the Slanders of all kinds of men; and then descend to particulars.

CHAP. II.

Some general things of Actions of the Case for Words.

WEE shall first give you in sundry Rules, and a few Cases, the general Doctrine of Actions of the Case touching Slanders; And these like the veins in the body run through the body of all the Cases hereafter following, wherein the words are, or are not actionable, as they fall within these Rules. And then wee shall give you the Cases themselves as examples answering to these Rules. The Rules are these.

Sec. 1.

1. That all scandalous words which touch or concern a man in his life, as to say he is a Traitor, Thief, or the like; or which touch him in his Liberty, as heretofore to have said of one, He was Ullain to J. S. or which concern a man in member in any corporal punishment, as to say, A man hath stoln six-pence (which is Petit Larceny) or the like; or which scandal a man in his office, or place of Trust, as to say to a Judge or Justice of Peace, He is a corrupt Judge or Justice of Peace, or the like; or which slander a man in his Calling or Trade, by which he gets his living, as to say to an Attorney, You are a cheating Knave, or a Trades-man, that lives by buying and selling, he is a Bankrupt, or the like; or which tend to the losse of a mans preferment, as to say to a man about to be preferred to a Benefice, That he is an Heretick; or of a woman like to have a Husband, that she is a Whore; or the like, if by this means they lose their preferment; or which charge a man to have any dangerous disease, by reason whereof he ought to separate himself, or be separated by the Law from the society of men, as to say a man hath the French-Pox; or the Plague, or the like; or which tend to the slandering of a mans Title, as to say, He hath no Estate in his Manor, when he is about, and hath need to sell it, or the like; or which tend to a mans dis-inheritance; as to say to an Heir to Land, He is a Bastard, or the like; or which tend any other way to the infamy, discredit, or disgrace of a man; or that may any way import any damage to a man. All such words regularly are Actionable, Co. 4. 13, 14. &c. Co. 10. 130. Dyer. 26. 72. Styles Regist. 6. Kirchin. 172. Bulstr. 1. Part. 40. This General Rule for the clearing of it, both admit of many Extensions, and many Exceptions and Limitations, which we shall say now in the Rules that follow. The Rules of Extension may be these.

Theft.

Corruption in an office.
Deceit in TradeHeretick.
Whore.
Infectious Disease.

Bastardy.

Some words Actionable, others not.

Sec. 2.

1. That albeit some of the words spoken at the same time are, and others of them are not Actionable, yet an Action may lye for the Actionable words, and the Action may be brought for them altogether. Dyer. 75. Plow. 118. Trin. 8. Jac. B. R. Lukers Case. Jenk. Cent. 7. Case 70. Co. 10. 131. Styles 112.

Words equivalent to Actionable words.

2. That many words (though of themselves they be not Actionable) yet being equivalent to words that are Actionable, may bear an Action; for they may prima facie, sound from the mouth of the speaker, in the ears of the hearer, as bad as any Actionable words. Palche. 15. Car. 1. B. R. Agard.

Which way so ever published.

3. That it matters not how the words (if they be Actionable) be published or divulged, whether by writing, or speech; for the Action is maintainable in both Cases. So a man might have been charged in this Action for a slander, by a Bill in the Star-Chamber, and so he may be now by a malicious Indigment. Co. 4. 14, 15. See in Hutcons Rep. 10. In Owens Rep. 30.

Spoken to or of a man, all one.

4. That it is all one as to the maintenance of the Action, if the words be

Spoken in the
second or third
person, all one.
Theft.

Words written
or spoken in a
another Lan-
guage.

Spoken after a
ny manner of
Speech.

Sect. 3.
Theft.

Theft.

As from a mans
self, or from
the Report of
another.

Spoken in ear-
nest, or in jest.

Spoken by one
sober or drunk.
Spoken at one,
or more times,
and in one or
more sentences.

Sect. 4.

be spoken or written to the person slandered before his face, or of him be-
hinde his back, Old Book of Entries, Coo. 4. 14. 15. and Hob. P. 292.

5. That it is not material whether the words be spoken in the second per-
son to the party slandered himself, as thus. Thou art, or you are a Thief,
or in the third person behinde his back, thus; J. S. is a Thief, for the Action
is alike maintainable in both Cases. Coo. 4. 14. 15, 16.

6. Nor is it material in what language the words are written or spoken,
whether in Latine, or Welch, or in the Native Language, they be scanda-
lous in all, if they be spoken so as the hearers do, or may attain to under-
stand the meaning of them. And yet if the words in their Native Language
be such as are not Actionable, no Action will lye for them; And if in ano-
ther Language in the hearing of them that do not understand them, it
seems they are not Actionable; And yet if one speak words in another lan-
guage that are Actionable, and hee English them himself by words that are
not Actionable, it is said, the words shall not bear Action. Croo. 1. Part
last publisht. 496, 497, 865. 15. Car. 1. B. R. in Herleys Rep. 175. In
Huttons Rep. 8. in Hobb. Pl. 155, 351, 236. See in Marches Rep.
Bendlows Rep. 134. Styles Rep. 263. Yet see Brownl. Rep. 6. Hobb.
126, 291.

7. Nor is it material how the words be uttered, whether directly, or in-
directly, and obliquely; and whether by way of Affirmation, as A. is a Thief,
or by way of Interrogation; as where is the piece you stole from mee?
Hath that Bastard B. caused you to be arrested? Hast thou been at London
to change the money thou didst steal from mee? or by way of Argumentation,
as, I will prove J. S. to be a Thief: Or by way of Regation, when it doth
imply an Affirmation, as You are no Thief; or by way of Irony, as, You
are no Thief, are you? Or thus, I have said that J. S. is a Thief, and I
will justify it, and have told him so much to his face; or the like. For in
all these Cases they are Actionable, Pasch. 15. Car. 1. Appletons Case. B.
R. Hill. 4. Jac. B. R. Lady Morrisons Case. Croo. 2. 275. Croo. 1. last part
publisht. 273. See in March. Rep. fol. 7. pl. 18. and 58. pl. 19. And so in
the Cases. March. 19. pl. 44. and 55. pl. 9. Goldsb. 186, 139. Croo. 2.
103, 569, 406, 422. Coo. 12, 134. 30. All. 10. Jenk. Cent. 8. Case, Nel-
sons Case. Croo. 2. 275. Hobb. Rep. pl. 276, 289.

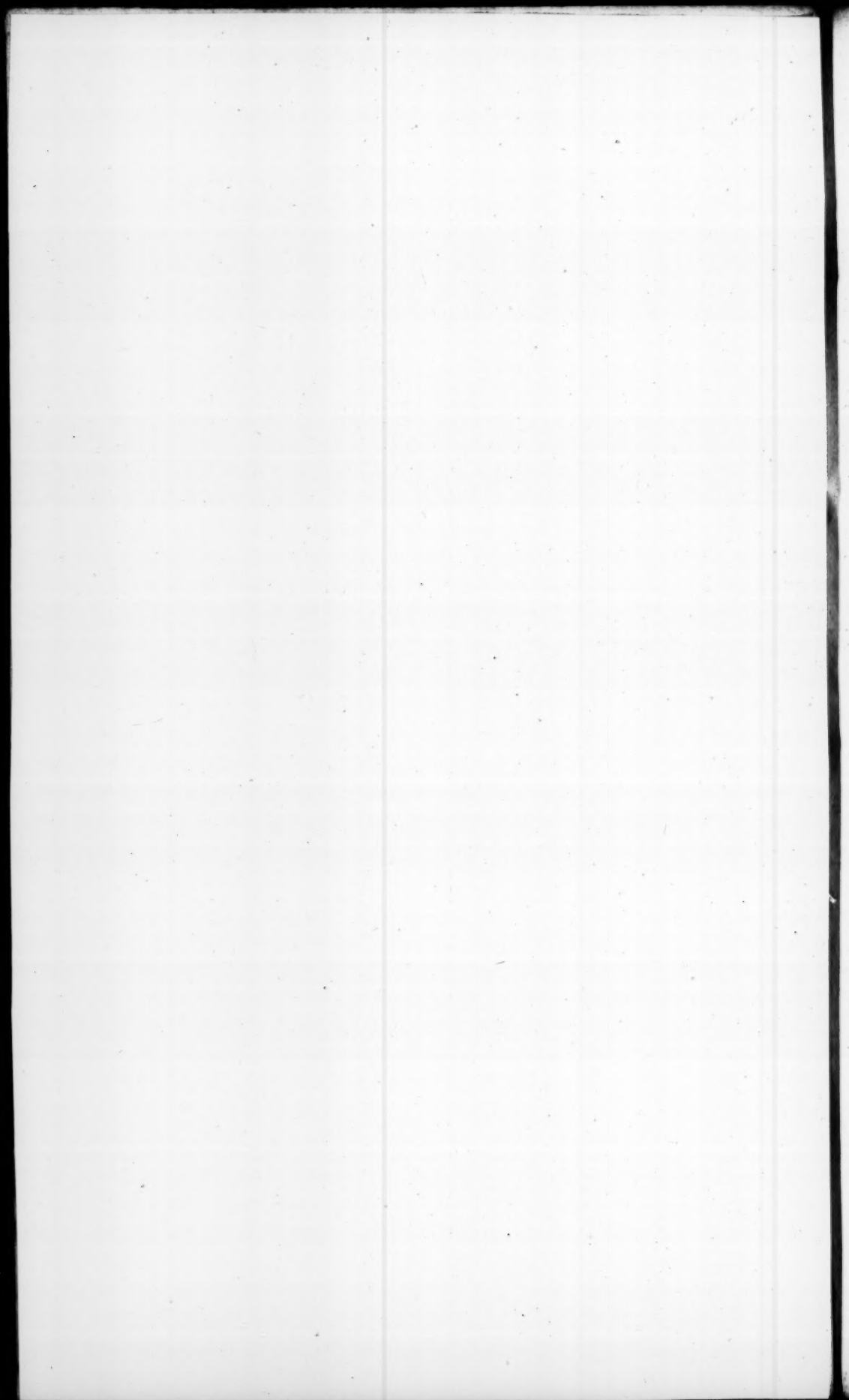
8. Nor is it material whether it be spoken as from the Speaker himself,
or by hear-say, or by Relation, or by the Report of another, if the other
did not report it. As when one saith, J. S. said A. B. is a Thief; if J. S.
did not say so, the words are Actionable, if hee did say so, hee may justify the
speaking of them. But if hee report the words, as to say, one said A. B. is a
Thief, and not name the Author of the Report, the words are dangerous,
and may be Actionable. Croo. 1. part last publisht 400. M. 9. Jac. B. R.
adjudged Croo. 2. 102, 406, 407. In March. Rep. 8. Coo. 12, 134. Jen-
kins Cent. 8. Case 7. Leonard. Rep. 187. Croo. 2. 275, 422. Yelvertons
Rep. 21. Bullstrode Rep. 3. 225.

9. Nor is it material whether they be uttered by way of earnest, or
seemingly only in jest, but with a mind appearing to be malicious, and with
a purpose to slander, for the Action will lye in both Cases.

10. Nor is it material, whether the man that uttereth them be sober, or
drunk with Wine or Passion; for the Action lieth alike in both Cases.

11. Nor is it material, whether the words be delivered in one, or more
sentences, or speeches, or at one, or more sentences or speeches, or at one,
times they may enure to the ag- or more times gradation of each other, or
if the words be all of them Actionable give severall Actions. Croo. 1. 238.
Bullstrode 3. 283. Coo. 12. 134.

12. Nor



12. For is it material whether the Slander be raised and fired by an extra-judicial way, as by ordinary Talk, or by a judicial way, as by Indictment, or the like, for in both cases they may be Actionable. *jenk. Cent. 7. Calc 64. Kelw. 13. Coe. 4. 26. Dyer. 285. Leonard, Rep. 187.*

13. That this Action will lye for words, though the words in a proper speech cannot be true; as if a woman say to me, Thou hast st. in my goods; for she hath no goods, but what is her husbands, adjudged. 9. *Jac. Croo. Rep. 2. 60.*

Taken improperly.
Theft.

14. That the slander that both concern a mans Life, Liberty, Member, or any corporal punishment, his Office, Trust, Calling, or the Charging with a foul disease, to cause a separation; these Actions are maintainable without any Averment in the Action of any particular damage that came to the Plaintiff by it, but it is otherwise in the rest of the Slanders; for if a man speak against another words that are not in themselves Actionable, as that he is a Rogue, Knave, Couzener, Fornicator, or the like; for these words he can bring no Action without Averment of some special loss he hath sustained by them.

Averment.

Rogue.
Knave.
Couzener.
Fornicator.

15. That the Quality of the person of whom the words are spoken, both much tend to the maintainance of the Action. And therefore some words that in themselves are not Actionable; relating to some persons, may be Actionable. So that albeit it will not bear an Action to call an ordinary man Papist, yet it will bear an Action to call the Archbishop of Canterbury Papist. So albeit it will not bear an Action to say of an ordinary man, Hee is no true Subject; yet to say so of a Privy Counsellor, Justice of Peace, Sheriff of a County, Captain of a Troop of Horse, about the King, may be Actionable. As it is reported in *Leonards Rep. 335.* So to say to one of the Privy Counsel, Hee is an untrue man to the King. *Trin. 37. Eliz. B. R. Walgroves Case.* And yet it hath been adjudged not to lye for this, said of a Knight, and one of the Gentlemen of the Kings Privy Chamber, That he was a couzening Knave, and lived by couzenage. *In Godb. Rep. 284. Croo. 2. 427. In Leonards Rep. 336.*

The quality of the person of whom they are spoken considerable.
Papistry.

Couzening.

16. That to charge a man with any Crime of Felony after a General, or special Pardon, albeit the Defendant know not of the Pardon, will bear an Action. So to charge a man with a Crime after he hath been indicted for it, and acquitted of it upon his trial on the Indictment. *In Hobb. Rep. pl. 71. 105. In Owens Rep. 150. Brownl. and Goldsb. Rep. 10. 1. Ed. 3. Corone. 15. 2. Ed. 3. Corone 18.*

After a pardon.

17. That words that in, and of themselves, and in their own nature are not Actionable, yet relating to some Persons in their Offices, Callings, and Conditions of life: Or by reason of some Accidents happening by them, they may be Actionable. As if one by doubtful and uncertain words (that are not Actionable) shall cast a charge of Treason, or Felony, or the like, and any special loss come to him of whom the words are spoken by them; these words may be Actionable. *Coe. 4. 15, 17, 20. Mich. 19. Jac. B. R. Harrisons Case. In March. Rep. 114, 115. In Brownl. Rep. 1. 11, 12. Croo. 2. 484. In Brownl. 2. part. 166.*

Words not Actionable in themselves, that are actionable by circumstances and accidents.
Treason.
Felony.

18. That if a man speak many slanderous words together of another, hee of whom they are spoken, may have this Action for any part of the words alone, and omit the rest of the words. *In Owens Rep. 30.*

Action brought for part of the words.

19. That there are some words, uncertain and unknown, and of no use in some Countries, that may be certain and known in other Countries, and be equivalent to slanderous words in another Country, and so be Actionable, being spoken there. And therefore for any such words spoken in the Country where they are used and known; or spoken elsewhere, if it be before

Words actionable in some Countries only.

force them that understand them, they may bee actionable. So to use any of these words. Thou art mainworn; or, thou art an out-putter; or, thou art a healer of Felons; or, thou hast strained my Mare; or that thou (being a Shoemakers Journey-man) wilt cut thy Master out of doore. Every one of these speeches are actionable in some places. But then some say, there must be this Averment in the Declaration, that they do carry this sence in the Country where they are spoken. And yet others say it may be proved at the Trial to have this sence. But it is most safe to averre it. And thus, to say of one in Devonshire, and thereabouts, Hee is a healer of Felons; For there it is taken for a hider, or concealer of Felons; where it is said, The healer is as bad as the stealer. So to say of one in some Countries, Hee is mainworn, where it is taken for, Hee is forsworn. So to say of one in some Countries, Hee hath strained a Mare, where it is taken for, Hee hath stoln a Mare, or bugged a Mare. So to say of a man in Northumberland, Westmerland, and some other places, Hee is an out-putter, where it is taken for a Horse-stealer. So to say of a man in Westmerland, and some places, Hee is a Sheep-Theef, where it is taken for a Stealer of Sheep. So to say of a man in some places that is servant to a Shoemaker, Thou wilt cut thy Master out of doore, where it is taken for, Thou wilt undo him. So to say of a man in some places, as in the North Country, Hee is a Daffidownilly, where it is taken for this, Hee is an Ambodexter. These, and such like words as these, spoken in the places where they are known, will be actionable. But some hold that if they be not spoken in the hearing of some that do understand them, that they are not actionable. And yet this may be a little doubted; For he that hears them spoken may ask the meaning of them of those that know it. And so the party will be slandered, and have no remedy. See for all these things in Brownl. 1. part. 13. Hobb. Rep. 350. 236. 106. 126. 191. 394. Yelverton Rep. 153. Bullst. 1. part. 146. March Rep. pl. 2. 17. Bullst. 2. 146. Coe. 4. 25. Brownl. Rep. 4. 6. In Heleys Rep. 123. Noys Rep. 98. 133. Bendloes Rep. 186, 187.

Slander by Act done.

20. That where a Defamation is cast upon a man by deed, which is tantamount, or more than a slander by word; as where a man is maliciously indicted for Treason, Felony, or the like; there the party grieved may have this Action; Bullst. 3. part. 272.

Averment.

21. That where words are in themselves actionable, as tending to the Infamy, Discredit, and Disgrace, and importing damage to the man of whom they are spoken, there the Action will lye without any Averment of any special loss by them. And so it is held for scandalous words that touch a man in his Life, Liberty, or Member, or any corporal punishment, or which scandalize a man in his Office, or Place, or Trust, or in his Calling, or Function, by which hee gets his living, or which do charge him with any great infectious disease. All such words will bear an Action, without alleging or averring of any particular damage by the speaking of them. But in all other Cases there must be a special damage alledged to be sustained by the Plaintiff, by the speaking of the words. And if that be in the Case, almost any words that carry any thing in them of a foul aspersion, may be actionable. Bullst. 1. part. 40. So much of the Rules of Extension.

22. The Rules of Exception or Limitation shall be these.

That actionable words in all cases (especially in cases where they may bring a man in danger of his life, must have these qualifications and conditions in them.

1. They must be false, for if the thing spoken be true, let the words be what they will, the party that speaks them may justify them.

2. They

2. They must be malicious, and purposely; and intentionally to slander and defame, for otherwise notwithstanding they be true, yet will they not be actionable.
3. They must be particular and clear, for if they be so general, as there, by to be ambiguous and doubtful, no Action will lye upon them.
4. They must be of a simple, single, and known sense; for if they be of an indifferent meaning, no Action will lye upon them.
5. They must be certain, against which there may not be any intendment; for if they be altogether uncertain, either as to the person slandered, or the slander it self, no Action will lye upon them.
6. The words must have in them some matter of weight and substance; for if the things spoken import no substantial matter, no Action will lye upon them.
7. They must be positive, affirmative, and direct, importing some permanent Accusation; for if they import a slander by way of Argument, Inference, or Implication only, no Action will lye upon them.
8. They must import a thing possible to be; for if they import a thing simply and apparently impossible, no Action will lye upon them.
9. They must import some Act done; for if they import only an Affection, Inclination, or Intention to do something, and nothing done, no Action will lye upon them.
10. They must carry in them, or cause by occasion of them something of damage and prejudice to him against whom they are spoken; for if it be apparent, then neither do, nor will bring any damage to him, no Action will lye upon them.
11. The words all of them spoken together must be actionable; for if some of them only be actionable, and the rest spoken at the same time do qualifie them, and take away the force thereof, no Action will lye upon them.
12. They must be spoken in an extrajudicial way; for if they be spoken in a course of Justice, and a judicial way, no Action will lye upon them.
13. They must be spoken in the hearing of some body that doth understand them; for if they be spoken in another language, which none of them that do hear them understand, no Action will lye upon them.
14. The words, if they charge a man with a crime, must import that the man charged hath notice, or knowledge of the ground or occasion of the crime, or they will not be actionable.
15. They must carry an Import of Slander in them, as they are taken and understood in their vulgar and common sense and acceptance; for if they become scandalous, as they are taken in a foreign, strict, and grammatical sense and construction only, this will not bear an Action. For the first of these.
1. The words spoken, and the thing said against him of whom they are spoken must be false; for the Wit is falso & malitiose, dixit, &c. And so the Action must be laid, or else it is not well laid. For if the words spoken be true, let them be what they will, the defendant in the Action may justify the speaking of them. But in that case he must take heed he do not plead not guilty; And if they be malicious, and false, an Action will lye upon them. Dyer. 236. Broo. 104. Action of the Case. Huttons Rep. 73. Croo. 2. 91.
2. For the second thing; The words spoken must be malicious, and with an intent and purpose to prejudice him against whom they are spoken. For the Wit is falso & malitiose, and it must be both false, and malicious, or otherwise it is not good, it is therefore in this considerable Quo Animo. The words

The words must be false
Sect. 6.

Reading

The words must be malicious.

words therefore must be such, as importing something, that is true, may bring the party against whom they are spoken, in danger for his Life, Liberty, Estate, or Credit, and no good cause can be shewed for the speaking of them. But for the discovery of the malice, these things are to be known.

1. That where no other Cause can be shewed of the speaking of the words; there the Law will take it to be malicious. That which is chiefly therefore to be considered, is *Causa Dicendi*. For if a Lawyer shall in the pleading of his Clients cause, innocently and pertinently to the cause in hand (which he must look to) and according to his Instructions, speak such words as may charge a man with a Crime, or be actionable in another Case; this shall not be taken to be malicious, and therefore not actionable. And yet if the Lawyer shall speak those words at another time, or in another place then when and where the Cause is debated; this may be actionable. So where a Preacher in preaching shall recite a History out of a Book, that doth prove false and scandalous; this will not be actionable. So if one advise his friend to forswear the Company of such a one, for that he hath the Pox, or tell his friend of somewhat that is reported of him, and wish him to clear himself of it; In these Cases no Action will lie, for these words. For here the cause, or occasion of the speaking of the words, doth shew, that there was no malicious intent in the speaker when he spake the words. And yet if one shall make this but a Cloak for his malice in any such Case as this, it will be otherwise. But by these and such like Circumstances, it must be considered, with what mind he spake the words, and whether there were malice in them, or not. Bullstr. 1. part. 148. Hill. 51. Car. 1. B. R. Stiles Regist. 5. Croo. 2. 91. 339. Trin. 7. Cat. 1. B. R. Norman and Simonds Case. Coe. 4. 16. Hobb. Rep. pl. 11. 399. Dyer. 236. Huttons Rep. 73. Dyer. 236. Bullstr. 1. part. 148.

The words
must be clear
and perspicuous

3. For the third thing, The words spoken must be clear and perspicuous; as, Thou art a Theef, J.S. is a Bankrupt, or, thou hast killed J.S. or, thou was forsworn in the Kings Bench Court, or, in a Court of Record, and the like. And not obscure and ambiguous. And therefore for such like words as these; as to say, I have matter against him, for A. hath found forgery, and can prove it against him; or, I charge him with felony, for taking money out of the pocket of J.S. Thou wast cooped up for forging Writs.

Obscure words.
Forgery.

Perjury.

Theft.

Or, thou didst forswear thy self in the Kings Bench; for this may be taken in the Prison called the Kings Bench. Or thus, Hee hath but one Mannor, and hee hath gotten it by swearing and forswearing; or, thou hast stolen my Apples, or my Corn; for it may be from the Tree, or out of the Field. No Action will lie for these, and such like words as these. Popham. Rep. 211. Hobb. Rep. pl. 381. 382. Croo. 1. 195. Coe. 4. 15.

The words must
be of a plain
and simple
sense, or univo-
cal.

4. For the fourth thing; They must be of a simple, single, and univocal sense in the vulgar acceptance of them: As, Thou didst burn the Barn of J.S. full of Corn; Or, Thou hast the French-Pox. Yelvertons Rep. 21.

Words of a
double sense,
or equivocal.

For if they be of a double and indifferent sense, that may be taken one way or other; there if the words taken in either sense be actionable, they must needs give an Action. But if the words will bear a good, and a bad sense, or a worse, and better sense; there if there be nothing in the Case by that which is said with them, and before, or after them, to guide them more to the worse, than to the better sense; they shall be alwaies taken in the better; and not in the worse sense, and so not be liable to Action. For in this the Rule is, *verba sunt accipienda in mitiori sensu*. And again, Benignior

nignior sensus in generalibus & dubiis preferendus. It is therefore agreed, That no Action will lye, for saying of a man, Hee did burn my Barn, for it may be a Barn without Corn; Nor for saying, Hee hath the Pox; for it may be the ordinary, not the French-Pox; Nor for saying, Thou art a Coyner of Gold; for it may be his Trade, and hee may do it by authority; Nor for this, I charge you with Felony, for this may be such a Felony, as for which damages only are recoverable as a Bailyn is; Nor for this, Thou art forsworn, for this may be in ordinary communication, or it may be in a Court of Justice, or the like. And no Invendo in any of these Cases will make any such like words that in themselves are not actionable to be actionable. And yet if in this Case, the Common, Ordinary, and Violent sense of the words in the Import thereof be the worse sense; and there be no other words spoken with them to turn their sense the other way, there they may be taken in the worse sense, and liable to Action; and therefore it hath been adjudged to lye for these words, A. hath had the use of her body; and for these words, A. hath spoken Treason. Huttons Rep. 75. 76. Co. 4. 20. 21. Godd. Rep. 1. 167, 181, 375. Hobb. Rep. pl. 351. Popham. Rep. 211. Croo. 1. 352.

Burning a Barn.
An infectious
disease.
Felony.

Perjury.
Invendo.

Incontinency.
Treason.

5. For the fifth thing, That the words that shall maintain an Action must be so apparent, direct, and certain, that there may be no intendment against them; as J. S. is a Theef; or, your Husband, or, your Wife, or, your Father is a Theef. For if they be altogether uncertain, either as to the person slandered, or as to the slander it self, no Action will lye upon them. And therefore if one say, One that is near you is a Theef, or, mine enemy is a Theef; or, one of the Sons [or, one of the Servants] of J. S. (who hath many Sons or Servants) is a Theef, or the like; no Action will lye for these words. And so if one say, A. deserves to be hanged; Or, A. hath taken away money from J. S. or, A. seeks my life; or, A. hath a mind to kill mee; or, A. smells of the murder of J. S. or the like; no Action will lye for any of these words. And no Invendo can in these Cases make the words certain and actionable. And yet if there be any thing else spoken in the conference, by which there is a certain description of the person slandered, as where the conference is about such a Son or Servant by name, and therein the party say, Hee is a Theef, or by which the thing intended by the slander is cleared, this may make the words certain, and so actionable. Co. 4. 17. Hobb. Rep. p. 382. Croo. 1. 127. Hobb. Rep. pl. 196. Croo. 2. 184, 443. Brownl. 1. part. 2.

The words must
be direct and
certain as to
the person and
thing.
Sect. 7.
Theft. j

Murder.

Invendo.

Theft.

For the sixth thing, That the words spoken must have in them some matter of weight and substance; and therefore the Law will not give this Action for every light and trivial speech, nor for every passionate word or speech, but there must be some such weighty and substantial matter in the words, that if true, might be perilous, and prejudicial to the party of whom they are spoken. And therefore it is agreed, That this Action will not lye, for any of these following words; Thou art a Villain, Rogue, Varler, Knave, Couzener, Rascal, Cheater, Railer, Miscreant, Hypocrite, or the like. Nor for calling of another, any, or all of these names together. And yet any of these words being joyned with other words that are actionable, may aggravate the slander, and so increase the damages. So to say of another, That hee keeps such a Dogg, that his neighbours Cattel about him cannot go in peace; or, that his Cattel are in every mans ground. For these, and such like words as these, no Action will lye. For in this the Rules are Boni Judicis Interests dirimere lites & Malicia hominum est obviandum. Co. 4. 15. Bullstr. 1. part. 40.

Villain.
Rogue.
Varler.
Rascal.
Knave.
Couzener.
Cheater.
Railer.
Miscreant.
Hypocrite.

For the seventh thing, That the words (especially if they concern a
D man

man in his life) must be so particular, positive, affirmative, and direct, that they may import a peremptory Accusation. And not by way of Argument, Inference, or Implication only, for if they so import a slander only, no Action will lye upon them. And therefore it is agreed, that no Action will lye for words thus spoken; I fear you will be charged with Felony; or, take heed you be not arrested for Felony, or, I doubt whether your words may not be treasonable words; or, thou hast deserved to be hanged for Felony; or, if thou hadst had thy Right, thou hadst been hanged for Felony before this day; or, I shall call him in question for the murder of J. S. or, I shall arrest him for flat Felony. For these, and such like words as these are, no Action will lye. Hobb. Rep. pl. 381. 286. Bulstr. 1. part 148. Coe. 4. 15. Popham. Rep. 210.

Felony.

Treason.

Felony.

Murder.

Trade.

Not for words
importing only
an inclination
or intention to
do a thing.
Adj:ctive
words.

Theft.

Corruption in
an officer.

Bankrupt.

Theft.

That the words
must import
some what of
damage to him
of whom they
are spoken.

Sec. 8.
Murder.

For the eighth thing, That the thing said by the words, must be a thing that is possible to have been done. For if it import such a thing done, as is altogether and apparently impossible, no Action will lye upon them. And therefore it is held, that no Action will lye for saying of another, that hee hath killed my Wife, for that the words themselves do shew her to be then alive. Coe. 4. 16. So to say to a Brewer, My Mare doth piss as good Beer as thou dost brew, these words in themselves are impossible, and will bear no Action. And yet if the Brewer in his Trade shall suffer any special loss by them, for this hee may have his Action. Coe. 4. 16. Mich. 15. Jac. B.R. Dicks Case.

For the ninth thing, That the words must import some Act done. For if they import only an Inclination, Affection, or Intention to do a thing, no Action will lye upon them. And therefore it is held, That no Action will lye for such like words as these; Hee is a Theevish Knave; or, hee is a Traiterous Knave; or, hee is a seditious Knave. And yet if these, and such like Adjective words, shall import an Act done; as, Hee is a perjured Knave; or the like; There this Action will lye, Or if they be such words as do slander a man in his Office, Function, or Profession; as to say of a Judge, Hee is a corrupt Judge; or, of such an Officer, Hee is a corrupt Officer; or, hee is a bribing Knave: Or if they be such words as do slander a man in his Trade; As to say of a Tradesman, Hee is a Bankrupt [or a Bankruptly] fellow. For all these, and such like words the Action will lye. And so also it will where the Adjective word is added to an actionable word; As, Thou art a cunning Theef. And so also it will lye where the intent of doing an Act, and the Act done are joyned together. As, Hee would have robbed mee, and did rob mee of my dagger. And so also it will lye where the words import that hee is doing of the Act, as where hee saith of one, Hee is ravishing a woman, or, hee is robbing a man; Coe. 4. 16, 19. Hobb. Rep. pl. 17. Dyer. 72. Croo. 1. 301. Godb. Rep. 151. Bulstr. 1. part 134, 145, 138, 210.

For the tenth thing, That the words must carry in them, or cause by occasion of them something of damage or prejudice to him against whom they are spoken. For if the thing spoken being true, may not hinder, or hurt him by hazard of his life, or by the infringing of his Liberty, or by the impairing of his estate, or by the defamation of his Credit, no Action will lye upon them. And therefore it is agreed, That to charge a man with a Crime by words in another language, that none of the hearers understand, or to charge a man in an Action brought with the killing of a man, where it doth appear by the Record it self, that the party supposed to be killed, is yet alive, is not actionable; for hee neither hath, nor can have damage by it. So to charge a man with a trivial light matter, as that hee hath erected a Cottage against the Law, or hath a Dog that will not suffer his neighbours Cattel

Cattel to go in peace; these things will not bear Action. *Coo. 4. 16. Bullsr. 1. 148. Croo. 1. 350. Hobb. Rep. pl. 11. 236, 145, 164. 154.*

For the eleventh thing, That the words all of them spoken together must be Actionable, for words that are in, and of themselves Actionable, may be qualified by the precedent, or subsequent words joyned with them, and spoken at the same time, and therefore where part of the words rent asunder from the rest are Actionable; but there are other words spoken before, or after them at the same time, and in the same speech, or conference that doe explain, limit, and qualifie them, in such cases they will not be Actionable; and therefore it is agreed, that no Action will lye for the words in the Cases hereafter following. For that thou hast stoln my Apples out of my Orchard, I will say thou art a Theef; or, Art thou not a Theef that hast stoln away my Evidences; or, Art not thou a Murtherer, that hast killed so many Hares? Or, where two are talking of Hunting, and one of them shall brag how many Hares he had killed by Engines, and thereupon the other say to him, Thou art a Murtherer, in these and such like cases no Action will lye upon them. But these two Rules are given herein.

1 That the words that shall qualifie and extenuate such Actionable words, must be full and clear, and not ambiguous.

2 That the words that must qualifie and correct, must be such as doe not contain any matter of slander in them.

And 3 Some make a question of such kind of words, where they are subsequent to the Actionable words, and are brought in by the word (And) as you are a Theef, and you have stoln my Apples out of my Orchard; and in this case they argue that they are additional, and cumulative, and shall not correct at all, as they shall when they are brought in by the word For, as you are a Theef, for you have stoln my Apples, &c. But see more of this hereafter. *Coo. 4. 19. Hobb. Rep. 97. 381. 406. Stiles Rep. 115. 135. New Book of Entries, 22. 6. Croo. 1. 351. Godb. Rep. 89. Huttons Rep. 65. 109, 110.*

For the twelfth thing, That the words must be spoken in an extrajudicial way, for if a slander shall be raised and spread only by occasion, and the means of a prosecution, by one that doth but pursue the course of Justice in an ordinary way of Justice, no Action will lye for this, for in this it is held for a rule, That for a Suit, or any other legal proceeding in a course of Justice, if it be not out of malice, and touch not a mans life, no Action will lye; and therefore this Action will not lye against a man for bringing a Writ of Forger of false Deeds, nor for preferring Articles against a man to a Justice of Peace to have the good behaviour against him, nor for the prosecution of a suspected felon, by indictment as there is cause; and yet if in this case the prosecution shall prove to be malicious, as where an Indictment is preferred against a man for felony, or the like, and there be not so much as probablis causa for what is done, and the party be acquitted upon it; he may have this Action, or an Action in the nature of a Conspiracy; for as a Chief may be spared by the favour of Jurors, so an honest man may be much prejudiced in his reputation by such a malicious prosecution, 41, 42. *Eliz. Co. B. Sherington versus ware. See March of slanders, 2 part 10. Stiles Rep. 335.*

For the thirteenth thing, That the words must be spoken in the hearing of some body that doth understand them, for if words of slander be spoken in Latine, Greek, Welch, or any other Language in the hearing of such persons, as whereof not one amongst them doth understand what they intend, or signifie; no Action will lye upon them, *Croo. 1. 65. 144. Hobb. Rep. 63. 276.*

For the fourteenth thing, That where a man is charged with a Crime by any such words, and it doth not appear, that he had notice of the ground or occasion of the Crime, in this case no Action will lye for the words; As where one is charged to keep Thieves about him, and it is not said that he knew them to be such, no Action will lye for this, Mich 40. 41. Eliz.

And thus much for the Rules of Limitation, or Exception.

The Rules that follow are of another nature.

1 That if a man be charged with a Felony by a common fame, Arrested, Imprisoned, or Indicted upon it; and yet be (as he may be) innocent, he may not upon this ground be charged with this Felony, and therefore if any man in this case shall charge him with it, he may by this make himself liable to this Action, for in this case common fame will not excuse him that shall so charge him for this slander. Brownl. Rep. 2. Hobb. Rep. 105. 238. 381. 112. March. 76. 26 H. 8, 9.

2 That if the words spoken be true, let them be what they will, the Defendant may justify them, and excuse himself; Broo. Action of the Case, 104.

3 That in some cases, the words that are in their first utterance imperfectly and uncertainly spoken, and perhaps not Actionable, that these words may yet by the pleadings of the Parties, and Verdict of a Jury for the Plaintiff be made certain, and so become Actionable. The Pleadings therefore of the parties in these Suits must be carefully heeded, for they may be of great advantage or disadvantage to either party.

4 That words relating to a Person ought to be understood according to the condition of the person to whom they are spoken; so that the same words spoken to some meaner men, that will not bear an Action, yet spoken to a more eminent person may be Actionable, Croo. 1. last published, 192, 193. As to say to a Bishop, or a Judge, or Justice of the Peace, or the like man, he is a Heretic in the Common-wealth, or a corrupt man, may be Actionable. See Scandalum Magnatum.

Sec. 9.

For the better discovery, and more clear understanding of general ambiguous and uncertain words, and when they are, or are not actionable, these things are to be known.

That the intent and meaning of the Speaker in them is as well to be heeded (as far as it can be known) as the import of the words themselves. And for this it is said, It must be heeded, Quo Animo, they are spoken, & sensus verborum est attendendus. Et quæ ad unum sensum [or, ad unum finem] loquuta sunt non debent ad alium detorqueri. For are these Actions to be maintained upon mens words by a strained Construction; but where the words in themselves do import a slander. And for the better finding out of the sense of mens words, and their intent in them, this is to be known.

1. That words are not to be taken and understood in a strict and Grammatical sense, or ex ei termini per se, in their natural and proper signification; but in the vulgar and common sense that they are taken in the time when, and the place where they are spoken. For in this the Rule is Loquendum ut vulgus. Intelligendum ut sapiens. And hence it is that the same words that in one Country are actionable, in another Country are not actionable, Croo. 4. 14.

2. They are not to be carried by a foreign Construction besides their most natural likely, and common sense and meaning, into another sense and meaning. Croo. 1. 3; 2.

3. The cause, or occasion of the speaking of them is to be considered according

according to the Rule; *Sentus verborum sumendus ex causa dicendi.* For upon this difference it is, That the same words that will bear an Action in one case, will not bear an Action in another case. And words that in themselves will bear an Action, yet considered *ex causa dicendi*, will not bear an Action. And therefore if one say of another, That hee is a Bastard, when this is to defend his own title, where he himself doth claim to be heir to the Land, that is now in question, or like to be in question. Or say of another, that hee hath forsworn himself, where it is in a case wherein he hath taken his Oath against him, or where a Lawyer in the pleading of his Clients Cause, shall utter words according to his Instructions pertinently to the Cause, or a man shall in an orderly course of Justice utter such words as other wise would be scandalous; In these, and such like Cases as these, no Action will lye for words so spoken; albeit they be otherwise in themselves actionable. Croo. 2. 90, 91. Coe. 4. 13, 14, 16. March. pl. 45.

Bastardy.

Perjury.

Corruption in an office.

Murder.

Treason.

4. The words must be considered by all the rest of the words spoken together with them at the same time. And they are to be taken *secundum subjectam materiam*, & *conjunctim uno halitu*, and not by a part of them rent asunder from the rest: And therefore if one be talking about a Judge, Attorney; or other such like Officer about his office, and in this discourse say, Hee is known to be a corrupt man, and to deal corruptly; this will bear an Action. But if the discourse be about his dealings as a Usurer, or as an Executor in the performance of a Trust committed to him by a Will, there the words will not be actionable. So if two be talking together of Hunting, and one of them confesseth that hee doth kill Hares with Engines, and thereupon the other doth say to him, That hee is a Murderer, So if one say of mee; Hee is a Traitor, for I trusted him to buy Land for mee, and hee bought it for himself. So if hee say, I robbed him, for I took away his evidences, and a subpoena. In these, and such like cases no Action will lye for the words. Coe. 4. 16. 19. Brownl. 7. and 2. Godb. Rep. 89. Lievre de Entries. 22. 6.

5. But where the sense is double, and indifferent, that it may be taken the one, or the other way. But one of the senses is worse, and the other is better; there the words shall be taken in the better, and not in the worse sense. But of this see before.

6. That where the sense of the words is general, and may be taken divers waies, there it shall be understood with reference to the person of whom they are spoken. For in this the Rule is, *Sermo relatus ad personam intelligi debet de Conditione personæ.* And thus the same words spoken to one man, may be, and spoken to another man, may not be actionable. to say to a Judge, or such like Officer, You are a corrupt man, is actionable. But such words to another man are not actionable. Coe. 4. 16.

And yet if in this case, there be other words spoken together with these words, that do manifest them not to be intended with reference to his office, but to some other thing; the words will not be actionable. Coe. 4. 16. Hetleys Rep. 123. 129.

We have toucht it before, That Slander is, and may be by word, or by deed. And by word it may be either of the title a man hath to his Land; or of his Person. We shall first of all lay down something of the first of the slander of titles; and then we shall enter upon the slander of persons. As to which it may be easily discovered by that which is laid down in the general foregoing Rules; That in this subject we are upon, these things are principally to be considered.

1. The Person of the Slanderer.

e

2. The

2. The Person of the Slandered.
3. The way and manner of divulging of the Slander.
4. The frame of the words, whereby the Slander is raised and made.
5. The matter and quality of the slander it self. We shall therefore after we have dispatcht the first, and after we have spoken a litle to the Slander of great men; called Scandalum Magnatum, in the next place say something to every one of these particulars.

CHAP. III.

Of the Slander of a Title to Land.

Words that
tend to the
slander of a
mans title to
his Land; or
to a mans dis-
inheritance.

Sect. 1.

There are some words spoken that are in scandal and disparagement of a mans Title to his Land, or tend to a mans disinheritance, for which an Action of the Case may lye. And for the opening of this point, these things are to be known. That in all cases where an Action will lye for a Slander of this nature there must be these things in the Case.

1. The words must be spoken about such Land, as wherein I that am to bring the Action, have some Title of Estate, or at least a possibility, or probability of Estate or Title in Possession, Remainder, or Reversion. For if they be spoken about Land that doth not concern me, and wherewith I have not to do, they cannot as they refer to the Land be actionable.

2. The words spoken must be false; For if what is said be true, be it what it will, the speaker may justify the speaking of it where an Action is brought against him for it.

3. They must be spoken by one, that neither hath, nor pretendeth title to the Land himself, and that is not of Counsel with him that hath or pretendeth title to it.

For if a man lay claim to Land that another hath in possession, or to which he doth pretend title, as next heir, or otherwise. And he shall say any such words as these, That the Land is his Land that claimeth it, and not the others; or, that hee hath a good title to it, and the other hath no title to it; or, that hee hath such an Estate in it; or, such a conveyance of it, if in truth hee have such a conveyance of it, and if it be true, as he saith, no Action will lye for it. So if they both claim as heir, and the one of them say of the other, That hee is a Bastard, or, that hee is not the rightful heir; or, that his Father was an Alien, or the like; and that hee himself is the heir. And so if the Counsel of such a man shall use any such words as these in the agitation of his Case about the Lands, these words will not be actionable. And yet if a man shall pretend title to the Land another hath in possession, and hath no colour of title for it. And say, hee hath such a deed or conveyance of it, where in truth hee hath no such deed, or conveyance at all; or, if he hath any such, it is a counterfeit, and a forged one, and he knoweth it to be so; in these Cases the words may be actionable. But if there be any colour for what is said, the words will not be actionable. Co. 4. 17, 18. Yelvertons Rep. 80. 88. New Book of Entries. 20. 28. Trin. 35. Fitz. B. R. Banisters Case. Mich. 3. Jac. B. R. Croo. 2. 339.

4. The party that brings the Action must have, or be likely to have some special damage by the speaking of the words; as that he is hindered in the sale of his Land, was forced to sell his price, or in his preferment in marriage, or the like, by it. And therefore where a man is not about the sale of his Land, or about a match with a Wife or Husband, and another shall speak words to the disparagement of the title of his Land; this will not bear an Action. But if by the speaking of the words hee hath lost his Chayman,

or otherwise suffered any special prejudice (the which he must not faile to set forth in his Declaration) there without question the Action will lye, Croo. 1. 99. 100. Croo. 2. 213. 397. 422. 484. Croo. 2. 642. 337. Owens Rep. 32. Popham, Rep. 187. Yelvertons Rep. 88. Bulstr. 2. part 9.

5 That where the words are spoken to the prejudice of his Inheritance, as where he is denied to be rightful Heir, or the like, there the Action may be maintainable without Averment of any present damage, and therefore it is held that this Action will lye, for saying of a lawful Heir to Land, before or after the Ancestors death, He is a Bastard; and so albeit the words be spoken before, or after he hath Land in possession, and though he be not about to sell the Land, and although he have no special losse by the speaking of the words, for by this the King, or other Lord may be moved to search after the Title, and the Title of his Land (if he have any) may be called in question, and so it may in time turne to his prejudice, Croo. 4. 17. Croo. 2. 642. M. 20. Jac. B. R. Elborrows case.

6 That this Action will not lye for words that are too general and incertain, nor for words that are not malicious, sufficiently positive, and the like, within the Rules of words spoken in other cases; for if they be incertaine, of a double intendment, doubtful meaning, or the like, no Action will lye upon them.

It is therefore agreed, That if I have Land, and am about the sale of it, in treaty with another, or about to settle it on a Marriage, and one that hath nothing to doe with it, or makes no title to it shall say, That I have no title to the Land, or, I have no right to it, or, I can make no good estate of the Land, or, that it is anothers Land, or, that another hath such an estate in it, and set forth such a one as will disable the estate that I am now about to make, this is Actionable. As if I bee a Copeholder for life, of Land in a Mannour, and the Lord is making a Lease of it, after my life, and is bid five hundred pound for it, and I shall say, I have a Lease for years of it after my life, made by a former Lord, this will be Actionable, Croo. 4. 18. Croo. 2. 397. 337. Owens Rep. 32. Pophams Rep. 187. Croo. 2. 163. Yelvertons Rep. 88. Croo. 1. 99. But if it be so, that I have only a purpose to sell it, or to settle it upon Children, and any man speaks such words about it, this will not beat Action, Croo. 2. 397. 337. 444. Pophams Rep. 187. Owens Rep. 32. Croo. 1. 99.

And if one that claimes this Land as his owne, shall say, It is my Land, or, I have a Lease of it; or, the other hath no estate in it, or, hath no right to it, or the like; this is not Actionable, Croo. 4. 18. so if I pretend Title to Land as Heir, and another claims it as Heir, and I say, He is a Bastard, and I am next Heir, this is not Actionable, Croo. 4. 17. Yelverton Rep. 80, 88.

And if a Counsellor shall say, That his Clyent hath the better right to the Land, or shall use other words in the course of his pleading pertinent and necessary to be said in order to the advance of the cause, no Action will lye for this, Croo. 4. 17. Trin. 25. Eliz. B. R. Bamfords case. If I have a Copehold of Inheritance within the jurisdiction of the Court of another, and he saith, That I have nor any Title to those Lands, & by this I have no special prejudice, no Action will lye for it; Croo. 1. 99. and yet if such a one that hath no Title to, nor estate in it himself, shall say, that another hath an estate in it, or title to it, who hath no good, but hath a colourable estate or title in it, this will be Actionable, so it is to say in such a case, I know one that hath a

Lease of the Land, and hee will not part from it at any rate. Mich. 37. 38. Eliz. B. R. Penniman's Case. Mich. 20. Jac. Elborrows Case. Croo. 1. 99, 100. Croo. 2. 397, 422, 642. Croo. 4. 17. Coe. 1. 175.

And if two have Leases of the same Land, and hee that hath the last Lease, which is not good, shall say, That the Land is his, and the others estate is not good; this is actionable. Coe. 1. 175. Coe. 4. 18.

And if I be about to sell my Land, and J. S. shall pretend to, and shew a Lease of it, and it is counterfeit, and hee know it to be so, this is actionable. Coe. 4. 18.

So if a woman shall publish a Lease of the Land of another, as made by her Husband, and shall know it to be forged; if by it the party have any special loss; hee may have this action. Coe. 4. 18.

So if I be about to sell my Land, and another man shall say, the Land is conveyed to J. S. and is his Land, or that hee hath a Lease of it for years; or the like; this is actionable. And so it is, albeit there be a conveyance of Lease made to J. S. in truth, if it be not a good Conveyance of Lease in Law. Coe. 1. 175. Coe. 4. 18.

But for these words, I had rather to buy the title of the younger Brother, than of the elder Brother, and the Plaintiff; and that hee had seen an Indenture to lead the uses of a Fine, whereby it did appear that the Plaintiff had no authority to sell the Land; no Action will lye. Crush. verf. Crush. M. 3. Jac. B. R.

To say a man is
a Bastard, and
not a rightful
Heir to Land.

And so it hath been agreed, That an Action will lye in the Cases following. As I have Land as Son and Heir of J. S. and another shall say of mee, I am a Bastard, if by this I suffer any special prejudice, there is no doubt I may have this Action against him. Croo. 2. 642.

Bastardy.

And if I be Heir apparent to my Ancestor, who intends to settle his Land upon mee, and by occasion of these words, hee doth give it away from mee; I may have this Action against him that speaketh the words. Croo. 2. 642. Croo. 2. 213. Godb. Rep. 421, 451. pl. 519. Bullstr. 2. part 90.

May it seeme the Law is, That if one shall say of mee, that I am a Bastard; albeit I do not claim any Inheritance, or to be Heir to any one person in certain, and albeit I have not any present or special damage by it; yet that these words are actionable. Croo. 2. 642. Croo. 2. 213. Godb. Rep. 421, 451. pl. 519. Bullstr. 2. part 90.

And if I have but a remote possibility of Land, as where an entail is of Land on my father, and the Heirs of his body, whereof I am the youngest of many, and hee is about the sale of this Land, and I am bid money for this possibility, and then one shall say of mee, I am a Bastard, and after that the Purchaser refuse to give mee any thing; for my possibility in this case I may have this Action against him for it. Croo. 2. 213. Godb. Rep. 421, 451. pl. 519.

CHAP. IV.

Of the Scandalum Magnatum.

Scandalum
Magnatum.
What.
Sect. 1.

The punish-
ment of it.

Scandalum Magnatum, is a wrong done to some eminent person of the Land, as Duke, Earl, Baron, Chancellor, Treasurer, Privy-Seal, Justice of the one Bench, or of the other, by false news, or false messages, whereby debates and discords between them, or any scandal to their persons may arise. Stat. 2. R. 2. chap. 5. Westm. 1. chap. 34.

In this Case the party defamed may have his Action in the name of the King, and his own Name upon the Stat. of 2. R. 2. And hereby shall recover damages

niages for the wrong, and the party may also be otherwise punished. And if the slander be divulged in the nature of a Libel, it is punishable by Indictment; and great Fines are imposed for this offence, for that the reproach of such persons is the reproach of the King and State it self. *Coo. 5. 125. Old Book of Entries. 593. Crompton. Jur. 35. 19. 13.*

For the knowledge of this, wherein this Action is given to a great man, for such a wrong, these things are to be known.

1. That the King is within the Statute of Westm. cap. 34. but not within the Statute of 2. R. 2. cap. 5. and 12. R. 2. cap. 12. *Dyer. 155.*

2. That the persons that are to have this Writ, are declared to be Prelates, Dukes, Earls, Barons, and other Nobles and Grandees of the Realm, and also the Chancellor; Treasurer, Clerk of the Privy-Seal, Lord Guardian of the Cinque Ports, and of the Kings Privy-Council, Steward of the Kings Household, Justice of the one, and of the other Bench; and other the great Officers of the Realm. 2. R. 2. cap. 5. Westm. 1. 34. *Dyer. 155. in Hetleys Rep. 55.*

3. That for this, it matters not for the manner of contrivance or publication of it, which way the words or reports be published, either by speech or writing; either spoken or written from a mans own knowledge, and from himself, or by the report of another. And by writing either delivered to the party himself, or to another, or hanged up in any open place, or by Libels, or by any other extrajudicial way whatsoever. See in *Hetley. Rep. 55.*

But this lyeth not against any man for any thing done by him in a judicial way, as for bringing a Writ, or for having a Suit, for forging of deeds, or other Cause in a legal way, or for preferring and prosecuting of a Legal Indictment, or an Appeal of Murder, Robbery, or the like offence, albeit the Charge be false; And whiles the Starr-Chamber-Court was in being, a Bill might have been brought against any such great man for any thing whereof the Court had Consuance as against another; but for preferring any Charge in that Court for any thing whereof the Court had not Consuance, a man might have had this Action; Or for a Conspiracy to indict such a man, the Defendant or party indicted, may have the same remedy against the Plaintiff, and Conspirators as another man may have. *Crompt. Jur. 13. Coo. 2. part Inst. 228. Coo. 4. 14. Fitz. Disceit. 35. Dyer. 285. Kelw. 27. in Hetley Rep. 55.*

4. For the Matter and Quality of this Slander, take this. That the words or rumours uttered against great men, for which this Action is given,

1. Must be false and horrible.

2. Such as by which discord or slander may arise between the King and his people, or the Grandees of the Realm. Westm. 2. cap. 24. Or between the Lords and Commons. 2. R. 3. cap. 53. by which great peril and mischief may come to all the Realm.

3. Such as tend to the destruction of the Realm. *Coo. 12. 134.*

And if any do hear, or shall hear any such words by the report of another, it will not be safe for him to report them again. *Coo. 12. 136.*

It hath been adjudged and resolved for the words uttered, as in the Cases following, viz. For saying, Thy Lord is a Traitor, and I will prove him a Traitor, Vicount, Sayes Case. In *Leyes Rep. 82. Croo. 1. 96.* And for this, My Lord of Winchester sent for mee and imprisoned mee till I entred into bond of twenty pound to the Kings use. The Bishop of Winchesters Case. *Croo. 1. last published. See it in Leonard Rep. 336. 2. H. 8.*

So for saying, My Lord is a base Earl, and a paultry Lord, and keepeth none but Rogues and Rascals like himself. Earl of Lincolns Case. *Trin. 5. Jac. B. R. Yet see Croo. Rep. 2. 196.*

For and against whom, and where this Action will ly or not.

How this slander may be contrived and published.

For what this Action may be laid; Or not. Sect. 2.

Twenty pound:

So for saying, You bring in Jesuits and Papists into the Realm, &c. Earl of Northampton Case. Coe. 12. 136.

So for saying, You maintain sedition against the Kings proceedings; D₂, you uphold and countenance them that do so. Coe. 4. 13.

So for this, You are a Traitor to your Prince, or Rebel against him, Lord Monteaegles Case. M. 9. Jac. B. R.

So for this, It is your grief that you are a subject, County of Salops Case. M. 40. & 41. Eliz. B. R.

So for this, You charged them that transport, or import Merchandizes to or from such a place, that they should not pay custome for it, nor suffer the customers to search them, Old Book of Entries. 593.

So for this, You have no more conscience than a Dog; so you have goods, you care not how you come by them. Duke of Buckingham Case. M. 4. H. 8. Rot. 659. D₂ to a Chief Justice, You are a Corrupt Judge. Crompt. Jur. 35.

So for this, You said you would wind my guts about your neck; Lord Abergavennie's Case. Crompt. Jur. 13.

So also it is thought of these words, You are used to do things against Law, to impound the Subjects beasts, and keep them in a Castle that they cannot be replevied; but to say that hee did so once, will not bear an Action. Duke of Buckingham Case.

So for this, You have sent Commissioners to spoil the Country, where hee sent Commissioners to make Leases of his Land, and improve his Rents. Duke of Buckingham Case.

So for this, My Lord of Abergavennie sent for us, and put some of us in the stocks, sent some of us into the Gaol, and put some of us into the house called Little Ease. Hill. 19. Eliz. the Lord Abergavennies Case. See it in Croo. 1. last publisht, 191. and Leonards Rep. 336.

And so generally, of any words of an ordinary mans spoken, will give him an Action, being spoken to such an eminent person, will much more give him this Action. Coe. 12. 132. 134. Leys Rep. 32.

But it is said, It will not lye in these Cases, and for these words following, viz. The Earl of Lincolns men by his commandment did take the goods of one Hoskins by a forged warrant, because it was not said, hee knew the Warrant to be forged. Goldsb. 115. See more of this Subject. Leys Rep. 82.

In the Case of the Earl of Northampton, Mich. 10. Jac. B. R. It was (as it is said) amongst other things resolved in the Starre-chamber.

1. That the publishing of false Rumours, either concerning the King, or of the high Grandees of the Realm may in some Cases be punished by the Common Law. So as

1. The words and rumours be false and horrible; by which discord or slander may arise betwixt the King, and his People, or the Grandees of the Realm. West. 2. cap. 24. or between the Lords and Commons, 2 R. 2. cap. 53. by which great peril and mischief may come to all the Realm.

2. The persons against whom the words be spoken, must be Prelates, Dukes, Earls, Barons, and other Grandees, and Nobles of the Realm, and also the Chancelour, Treasurer, Clerk of the Privy-Seal, Steward of the Kings household, Justice of the one, and of the other Bench. 2. R. 2. cap. 5. Westm. 1. 34. Dyer. 5.

3. It was resolved, that if one hear such false and horrible rumours either of the King, or of the said Grandees, it is not lawful for him to relate to others, that hee hath heard J. S. to say such false and horrible words, for if it should, by this means it may be published generally, &c.

3. It

3. It was resolved, That if A. say to B. Did you not hear that C. is guilty of Treason, &c. this is tant-amount to a scandalous publication. And in a private Action for Slander of a common person. If J. S. publish that hee hath heard J. N. say, that I. G. was a Traitor, in an Action of the Case, if the truth be so, hee may justifie it. But if J. S. publish generally, without a certain Author, that J. G. was a Traitor, there an Action of the Case lieth against J. S. for that hee hath not given to the Plaintiff any cause of Action against any but against himself, who published the words, albeit hee might hear such a report, for otherwise this might tend to the great Slander of an innocent, it coming first from a mans mouth of no credit, and being after in the mouths of persons of credit, &c.

4. It was resolved, That the Judgement in an Indictment upon the said Statutes, when the words are spoken generally, without Relation to a certain Author, is that the Offender shall be fined and imprisoned. Also the party grieved may have an Action de scandalo Magnatum, and recover his damages. COO. 12. 133. 134.

CHAP. V.

Of Actions for Slanders of all kinds.

Where it lyeth, and what words will bear this Action; or not. As to the manner, contrivance, and publication of the slander.

IN all Cases where this Action of the Case for the Slander of a common person, shall be maintainable (as hath been before touched) there must be these things in the Case.

1. The Slander must be published and contrived.
2. It must be so published and contrived, that there may be a certainty in it.

1. As to the persons of the Slanderer, and Slandered.
2. As to the manner of the utterance of the words, and charge of the Slander.

3. And as to the thing wherein the Slander lies, the which also must be such a thing, as for which the Law doth give this Action.

And for the first of these as to the manner of Publication and Contrivance of the Slander, take these things.

1. If a Minister in a Certificate to his Ordinary, wherein hee is bound to certifie other matter, shall insert scandalous matter, this is actionable. Reads Case. M. 7. Jac. B. R.

2. A Libel may have and contain such matter in it as may give advantage to the party slandered by it, to bring this Action; and therefore to write a Libel of Slander in Paper, and affix it to the Church door, men going to the Church, is actionable. 17. Ed. 4. 3. lib. 13. sect. 4.

3. To write a Letter in private sealed, wherein is matter of Slander, is actionable. And yet if the Writer shall deliver it to him who is slandered in his own hands, perhaps it may be otherwise. Hobb. Rep. 63. M. 9. Jac. B. R. In the Lord Lumley, and Hoods Case. It was agreed, That where Ford in a Letter written by him had written, It is reported the Lord Lumley seeketh my life; and in truth it was not reported, this is actionable. Leonard, 187. Bullstr. 3. Rep. 225.

4. To speak the words in a mans ear, and by him keep counsel, is actionable. M. 9. Jac. B. R. Hobb. Rep. pl. 63.

5. If a Counsellor give in evidence, and enforce any thing in his Instructions for his Client against his Adversary, or against the Testimony of a witness, albeit it be false, if it be pertinent to the Case in question, which hee must look to, this is not actionable. But if it be not pertinent to the issue,

For the manner of contrivance of the slander, Sect. 1. Words in a certificate.

In a Libel.

In a Letter.

Words uttered by a Counsellor in pleading.

sue, or matter in question, it will be his wisdom to forbear it, for if not true, or if true, and not pertinent, he may be sued for it in this Action. So if he shall speak the words at another time, and in another place, Mich. 31. Jac. B. R. Brook Versus Mountague. And if the slander be by this information of his Client, the Client may be charged in this Action for a slander thus published, Croo. 9. 90. And yet by Glin. ch. Iust. B. R. It was said, That if a Counsellor speak scandalous words against one in the defence of his Clients Cause, no Action will lye for this; for he doth but his duty, and it shall be intended to be spoken according to his Clients Instructions. Styles Rep. 462.

By way of Indictment.

5. If the Slander be contrived by way of Indictment, Articles exhibited to procure one to be bound to the Good Behaviour, or otherwise in a course of Justice, it may be actionable; But for this know, That this Action will not lye for any thing that is said, that may reflect upon another, if it be said or done in a way of Justice, without any malicious intent. As where a Defendant in a Spiritual Court amongst exceptions put in against the Plaintiffs witnesses, one of them is, that such a one of them was perjured; so if one bring another before a Justice upon a suspicion of felony that is false. And where one doth exhibit a scandalous Bill in a Court that hath Jurisdiction of the Things, and they be false; or a man in pleading say, such a man was Bankrupt, and so he seized his goods under a Commission, and the like. So where a witness doth give in evidence only. So for indicting a man for felony, where there is ground for it, although it be false; So for suing of a Writ of Forgery of a false deed; so for to make a false Affidavit in Chancery, by which a man is imprisoned; So for to put a slanderous Complaint into the hand of a Member of Parliament, no Action will lye for any of these things. Noys Rep. 116. In Godb. Rep. pl. 333. Kelw. 26. Dyer. 2. Co. 4. 14. Pasch. 3. Jac. B. R. Marsham Versus Pescod. Croo. 1. part last publisht. 230. 247. Dyer. 285.

Bankrupt.

Forgery.

Sec. 2.

in a Court of Justice.

But if a man shall so accuse a man in a Court, that hath not jurisdiction of the thing whereof the party is accused, or insert other things amongst things wherein it hath jurisdiction, or speak of other matters, which do not concern himself, but others with which he hath nothing to do; As when the Star-Chamber stood, if one had charged another person, a stranger, with matter of slander; Or had charged another there in a Bill of Piracy, Murder, or the like, wherewith the Court had not Jurisdiction, as Sir Richard Buckley was charged by a Bill in the Star-Chamber to be a maintainer of Pirates, Cheeves and Murtherers, and a Procurer of Pirates, and for this the Action was adjudged to lye, for that Court had not Conscience of these things. Co. 4. 14. Croo. 1. last publisht. 230. 247. So also if one having a Bill in there against a Judge for Corruption, or the like, and he had gone about and divulged what was in the Bill to others to scandal the party; this had been actionable. Trin. 116. Car. B. R. Vass. Crooks Case.

Theft.

So if a Justice of Peace sent his Warrant to arrest a man pretended by the Justice to be accused before him for the stealing of the horse of J. S. the party is arrested and kept in Prison, till he give bond to answer it, and in truth the man was not accused, nor had the Justice any ground for it; this is actionable adjudged. But if in truth he had been accused, albeit it had been false, Contra Trin. 3. Eliz. B. R. Windhams Case. Leonard. Rep. 187.

Theft.

If I have lost goods, and I suspect a man for it on some ground, and I go to a Justice for a Warrant against him, and he say, take heed what you do,

do, and thereupon I say I will charge him with the stealing of my goods; this is not actionable adjudged. *Hutton. Rep. 113.*

But if a Felony be done, and the rumour fained is, that A. did it, and thereupon B. doth inform a Justice of the Report, and before the Justice, or elsewhere shall positively affirm, that A. did this Felony; this may be actionable. For albeit one may charge a man with a Felony, or arrest a man for it in such a Case of suspicion, yet he may not thereupon affirm that he did it, for he may be innocent all this while. *Hobb. Rep. pl. 238. 103. 381. 112. 105.*

Or if one shall begin to charge another in the right place, and then prosecute it elsewhere out of course, there the Action may lye. So if hee do or say more than is necessary in the right roode of Justice. As if I be robbed, and J. S. is suspected by the common report; now I may have him arrested, and prosecute him for it; But if I shall report and affirm that J. S. hath robbed me, I may be liable to his Action; So where I have duly indicted a man upon a suspicion of Felony, and I shall after tell of it boasting in Ale-houses, and report of him, that hee hath done the Felony whereof hee is suspected, or had preferred a Bill in the Star-Chamber of scandalous matter, and had after gone and reported the thing in an Ale-house, or the like. *Croo. 1. last publisht. 230. 247.*

So if one shall indict or charge another legally for Felony, where there is no ground of it at all, nor any colour of guilt about him. So where a witness shall go beyond the issue, or point in issue, and slandereth a third person, an Action will lye for this. *Croo. 1. part last publisht 230. 247.*

6. A Bill of Indictment was falsly and maliciously without any colour of guilt preferred by one to a Grand Jury against another for a Rape, and an Ignoramus found by the Jury; this is actionable adjudged, and affirmed in *Error. Hill. 10. Jac. B. R. Horewoods Case. Jenk. Cent. 7. Case 64. 40. Dyer. 285. Winches. Rep. 28. 54. Marches Rep. 76. pl. 119. Stiles Rep. 335. See in March. of Slanders. 2. part 10.*

And if there be malice and conspiracy in a Course of Justice, to take away my life, I may be relieved by this in some cases by an Action of the Case for a Conspiracy. *17. H. 8. 11. See after.*

7. Mich. 28. 29. Eliz. B. R. Stanley versus Curson. One was brought in by subpoena ad testificandum, and upon his oath, uttered matter of Infamy against the Plaintiff; and it was said no Action would lye for this. *Croo. 1. part last publisht. 230. 247. 248.*

8. A. Exhibited Articles to have the good behaviour against B. and took his oath before a Master of the Chancery, after hee ceased his prosecution there, and did get a Supplicavit out of the Kings Bench, to have the good behaviour there.

In this Case it was resolved, that the Action did lye. But had hee prosecuted in the Chancery, although the Articles had been scandalous no Action would lye, for a man shall not be punished for mistaking the Law, for hee may be misadvised by his Council. *Brownl. 4. Mich. 27. 28. Eliz. B. R. Tuthill. versus Osborne.*

2. As to the persons of the Slanderer, and the Slandered, who may have this Action, and against whom.

An Alien born under a King in Amity with our King, may have this Action. If therefore such an Alien Merchant who traffick here be called Bankrupt, hee may have this Action against him that so called him. *Bulstr. 1. part 134. Yelvertons Rep. 198.*

If one man slander two men at one time, they may not join in one Action, but must have several Actions for this slander. *Pasche. 1650. Croo. 1.*

Alien.
Sect. 3.

Husband and
Wife.

368. Dyer. 19. Goldsb. 76. Marches Rep. pl. 249: So if two men do slander one man, hee must sue them severally, and may not sue them jointly for this slander. M. 20. Jac. Chamberlains Case. 2. H. 7. 16.

If the wife slander, the Husband and Wife may and must be sued for this; and the Wife may not be sued alone for it. But for slanderous words spoken both of a man and his wife; the husband may sue one Action alone for his own slander, and hee and his wife may after sue another Action for the slander of his wife. And so for any slander of the wife alone, the husband and wife must sue; or perhaps the husband may sue alone, but it is safe to joyn his wife with him, In Styles Rep. 113. Trin. 14. Car. 1. B. R. Stiles Rep. 361.

Officer.

If two have an office jointly, and a slander be of one of them in relation to his office, hee may have this Action, and hee must bring it alone. Winch. 21. Rep. 40.

Perjury.

If one say of a Jewry, All the Jewry is perjured; Every Juror may have this Action against him; and they must sue asunder, and not together. Mich. 7. Jac. Coj. B. Deacons Case.

If the declaration be laid, that the Defendant dixit the words, and it say not de Querente, it is naught; for now it appears not how the words were uttered. Stiles Rep. 70.

Theft.

If the declaration be, hee spake these words of the Plaintiff, Thou art a Theef, in the second person, it is good enough; for to say, de præfat. or, ad præfatum, is all one. So to say to a mans face, Hee is a Theef, is actionable. Croo. 2. 39. Bullstr. 1. part 3650. Brownl. and Goldsb. 5.

Certainty.

To say of A. B. Thou art a Theef, behinde his back, or, hee is a Theef, to his face. And where two be speaking of A. B. and one of them say, Hee is a Theef, this may be reduced to a certainty, and so be actionable. Croo. 4. 17. For uncertain words may be made certain by reference, Id certum est quod certum reddi potest. Hobb. Rep. pl. 119. In Godb. Rep. 391.

Father and
Son.

To say to the Father, Thy Son J. S. or, thy Son J. is a Theef; if hee have but one Son, and it is so averred, is no doubt actionable. Croo. 2. 635. March. Rep. pl. 96. So to say to the Son, Thy Father is a Theef. Croo. 2. 635. 1. 635. And this needs no Averment. Bullstr. 3. 72. And yet it was adjudged to lye for this, your Son Innuendo your Son William J. stole a horse, and sold him for ten pounds. Stiles Rep. 46.

Theft.

But to say without any precedent communication of any person uncertain, one of the Sons of J. S. is a Theef; and J. S. have more Sons than one, is utterly uncertain, and not actionable. Croo. 4. 17. Croo. 1. 127. Hobb. pl. 354. Bendloes. 134.

Husband and
Wife.
Theft.

To say to the Wife, Thy Husband is a Theef; or, to say to the Husband, Thy Wife is a Theef, is no doubt actionable. Croo. 2. 635. Bullstr. 3. 226.

Master and
Servant.
Theft.

To say to the Servant, Thy Master is a Theef, is without doubt actionable. Croo. 1. 137. and 1. 443. 635. Hobb. 351. 371. Leonard. Rep. 335.

This Action will lye for saying, Thou servest no true subject. And here an Innuendo. J. S. such a man, will make it certain. Croo. 1. last publication. 102. 103.

But to say without any precedent communication of a person in certain. One of the Servants of J. S. (if hee have more servants than one) is a Theef, is utterly uncertain, and therefore not actionable. Croo. 4. 17. Croo. 127. Hobb. Rep. pl. 331. Bendloes Rep. 134. Croo. 2. 443. But if hee have but one servant, and it be laid to be spoken of him, it may be certain enough, and actionable. Brownl. and Goldsb. 2. Brownl. 1. part 7. 9. 10. 13. Hobb. Rep. 371.

To say to a woman, Thy Husband and his Master stole my Horle, will not give Action to any one as his Master, but it may give Action to her Husband. But if hee say, Thy Husband and his Master J. S. stole my Horle; this will give the Action to J. S. also, if J. S. were then re vera his Master, Bullstrode 2. part 82. Theft.

To say to A. B. Thy Brother C. B. is a Theef, is without doubt actionable. So to say, Thy Brother, without more, if hee have but one Brother, and it be said to be spoken of him. But to say without any precedent communication of a person incertain, One of the Brothers of J. S. is a Theef, and J. S. hath many Brothers, is utterly incertain, and not actionable. Croo. 4. 17. Croo. 1. 127. Hobb. Rep. pl. 331. Bendloes Rep. 134. Hobb. Rep. 351. 371. So for one that hath more Brothers than one, One of my Brothers is a Theef. Bullstr. 3. 226. And yet to say to A. Thy brother is a Theef, and hee hath but one Brother, which is B. in this case B. may have this Action, but then hee must aver himself to be his only Brother; and therefore it was adjudged not to lye for these words spoken to the Father, thy Son [Innuendo the Plaintiff] hath murdered my childe, because it was not averred that the speech was about the Plaintiff, or that hee was his only Son. Croo. 2. 635. March. Rep. pl. 96. And yet see Brownl. 4. and. Croo. 107. where for saying, My Brother is perjured, upon not guilty, pleaded, it was found for the Plaintiff, and said to be well laid without any averment, and that it shall be now intended, hee had no other Brother. Brother. Theft. Averment. Murder. Averment.

To say, That one that is neer to J. S. [or one that is about J. S.] or one that is mine Adversary, or one of you three (where there are three in the company) is a Theef, or one of your two (where there are but two in the company) is a Theef. These words are utterly incertain, and not actionable. Yet if in the first case it may appear by Averment, that such a one was then his enemy, and hee had no other enemy, it may happily lye. Croo. 4. 331. 17. Croo. 1. part last publisht. 497. Croo. 1. 127. Hobb. Rep. pl. Bendloes Rep. 134. So to say to three that have given in evidence, one of you three is perjured, Croo. Rep. 1. last publisht. 496. 497. and his fellows are Theeves; this can be certain for none but the first, and no other person but him may have an Action for these words. Stiles Rep. 147. Croo. 1. part 127. Hobb. Rep. 351. So to say, One I. S. stole the Horle that is lost, is altogether incertain, and not actionable. Mich. 7. Jac. B. R. Reads Case. But to say of a man there present, this man is a Theef, is certain enough, and actionable. Brownl. and Goldsb. 2. Sect. 4. Theft.

To say of two others of one Sirname Jones, and the one of them say to the other, These Joneses are Theeves, this may be certain enough, and so actionable; But if the words be, The Joneses are Theeves; the Case will be more doubtful. Godb. Rep. 391. 344. Theft.

If a speech be about a Suit that is between A. and B. and six others defendants, and in this speech the defendant is charged to say, These defendants Innuendo. B. the Plaintiff, and the others, are those that did help to murder J. S. this is certain enough, and all of them it was agreed might have Action upon it. Murder.

To say, The Parson of Dale is a Theef, may be certain, and bear Action with an Averment that hee that sues was then Parson of Dale, when the words were spoken. Per Just. Dodridge. Mich. 14. Jac. B. R. Bullstr. Rep. 3. 326. Theft.

To say, That murderous Knave Stroughton lay in wait to murder mee, and after not guilty pleaded in an Action brought by Thomas Stroughton, and verdict for him, hath been adjudged actionable. As was said in Croo. 1. 101. Murder.

Theft.

To say, that one Stamford (leaving out his Christened name) stole my Horse, is altogether incertaine and not actionable. Croo. 1. 303.

If there be speech between two about scandalous words, and therein one of them uttereth this speech, I know who spake thole words, Winnitke and Bell, I mean to have their Ears cut off, and their Tongues cut out; it seems no Action will lye for these by any one of either of those names. Bendlers Rep. 134. yet see Golds. 76. which seems to differ somewhat herein.

Murther.

To say, A. had a Childe, and between her and her mother they murdered it; it seems this is certaine enough, and happily both of them may have the action. But A. may doubtlesse have an action. Bendloes Rep. 152.

Theft.

A. and B. were speaking together of C. and D. the Plaintiff, and the Defendant spake these words of C. and D. C. hath stollen such goods, and shee (Innuendo the Plaintiff) was privie and consenting thereunto; in this Case it was resolved to be certaine enough, and that the word (Shee) shall have reference to D. the Plaintiff, and not to C. and so that she may have an action upon them. Croo. 1. 171.

Perjury.

To say these words, I. S. and I. D. is Perjured, is incertaine and not actionable, but to say, He Innuendo, the Plaintiff, and one A. are perjured Knaves, is certaine and actionable. Croo. 2. 102.

Innuendo, or
Averment.

An Action was laid, That the Defendant, Dixit de prefato Carolo, VVhere is this Baker, Innuendo the said Carolus Baker, hee hath, &c. In this Case the words were held to be certaine enough and actionable; as to say of a Counsellor, VVhere is this Counsellor, Innuendo such a one, this is actionable. Bulstr. 3. 72.

But here it must be observed:

1. That where the words are utterly incertain in, and of themselves, there no Innuendo or Averment can make them certain. and so actionable; but where the words are so certain in themselves as that it may appear what person the speaker did intend, there the words may be actionable. Croo. 2. 107.

2. That sometimes where there is such an incertainty in the words, by a Verdict found for the Plaintiff after not guilty pleaded, the words may be ascertained to be spoken of the Plaintiff, and so the Action maintainable. Croo. 2. 107. Bridgemans Rep. 60. Stiles Rep. 245.

3. That where the words are in themselves somewhat incertain, there in many cases they may by the precedent Conference, or by some Circumstances, and with a special Averment thereof in the Declaration be made actionable, and so it may be done in many of the Cases before laid down, wherein the words will not bear Action, without some such special Averment to help. Croo. 1. 303. Bulstr. 2 part, 227.

Theft.

The Plaintiff doth in his Declaration set forth, that there being talk between his Father and the Defendant, who said to the Father, That Taylor did steal the Mare of I. S. and thy Son was consenting to it; in this case the Declaration was ruled to be naught, because it did not aver that the Father had no more Sons but the Plaintiff. Trin. 14. Jac. B. R. Lewkner and Bodnams Case, Bulstr. 3. 249. And yet see Croo. 2. 107.

In all these and such like Cases of Incertainty before named, where the Plaintiff is to make a supply by his Averment, to maintaine his owne Action, and he omit it, it will be the wisdom of the Defendant in his Pleading, to set forth the Truth omitted for his owne advantage; As where the words are about a Son, a Brother, or Servant, and the Plaintiff doth omit to shew, that there is but one Brother or Servant in
the

note B. R.

the Case, to shew that there are more Sons, Brothers, or Servants in the Case then one.

And now as to the manner of the utterance of the words, and charge of the Slander. it is to be known (as is before touched) That slander may be uttered by direct, expresse, and downright words, thus; Thou hast killed I. S. or, He hath killed I. S. or, A. B. is a Thief, or the like; or by indirect and implicate words, and in other forms of words, either by way of question, thus, Are you not a Thief? Did you not kill I. S. or the like: or by way of report from others, as, A. told me you were a Thief, or the like; or by way of opinion, or thought, as, I think in my conscience you are a Thief, or the like; or by way of threatening, as, I shall call you in question for killing of my Aunt, or the like; or by way of comparison, as, You are as very a Thief as any in VVarwick Goal, or the like. And some are otherwise uttered, also some slanders import a charge of an inclination, or a purpose only to doe a thing; and some import a charge of an Attempt, and an indeavour to doe a thing, but no Act done; but some import a charge of an Act done, and some have another import in them. And therefore it is held it will lye for words of slander uttered thus, What art thou a Bankrupt? &c. Croo. 1 Part last published, 273. what I. S. that Thief? Croo. 2. 422. Pasche, 15 Jac. B. R. Nelsons Case, Hardwicks Case, 40 Eliz. Co. B. or thus, VVhen will you leave your stealing? or thus, Have you brought again the Horse you stole from me? or, Have you brought again the Mony you stole from mee? Maxies Case, Trin. 18. Jac. B. R. or thus; Have you been at London to change the Mony you stole from me? It is said therefore that it will lye for words spoken thus, Did you not kill I. S.? and some think these words Actionable, You might have known your owne Sheepe, and not have stoln mine. Yelverton, 144. And these words also, Hath A. B. the Bastard sued you, is that all the spight the Bastard can do you? Croo. 2. 422. Jenk, Cent. 8. Case 78. But if words be thus spoken, A, saith to B. He is a Felon, to which a slander by saith. Take heed what you say; to which he saith, Is not he a Thief that doth conceal Felons [or steal Trees, or takes my goods in Execution] it seems these words are not Actionable; but if the last words were first contra, Hill. 17. Jac. Newlands Case. And it is said, that an Action will lye for words spoken ironically, thus, You are no Thief. This Action will also lye for words uttered after this manner, viz. I have said that I. S. is a Thief, and I will justifie it, and I have told him so much to his face, Croo. 2. 438. Or thus, I will justifie that I. S. is a chief, Trin. 9. Jac. B. R. Barnes Case. Or thus, I did dream that I. S. did steal a Horse, March Rep. pl. 90. Or thus, I think in my conscience I. S. is a Thief, Hobb. Rep. 153. Or thus, I think thou wouldst if thou couldst kill the King, &c. Croo. 2. 407. Hobb. Rep. 153. Or thus; I think in my conscience if thou mightst have thy will thou wouldst kill the King, &c. Croo. 2. 407. Coe. 4. 19. Or for this March of Slanders, the first part, 113. VVinches, Rep. 124. But these words are held not to be Actionable. It is reported A. did such a thing, and I feare it to be too true. And if question be about a Robbery, and one say, He thinketh the Robbery was done by A. and he feare it is too true. Yelvertons Rep. 114. So if one ask why Mary S. did not come to Church, and another say, It is thought shee is with childe, and I feare it is too true. Yelvertons Rep. 114. This Action will lye for words uttered after this manner, I shall call him in question for poisoning my Aunt, &c. Neys Rep. 63. Sidenhams Case 16 Jac. See Winches, Rep. 124. Pophams Rep. 310.

3 As to the manner of utterance of the words, and charge of the Slander. Murder. Sect. 5.

Theft. By way of Interrogation.

Theft.

Theft.

Bastardy. Felony.

Ironically Spoken.

Theft.

I have said that I. S. is, &c. I will justifie, &c. Theft. Uttered as a Dream. By way of thought or opinion. Theft. Treason.

I shall question him for, &c. Murder.

It will be
proved, &c.

Theft.
I doubt not to
prove, &c.
Murder.
Treason.

Perjury.

Perjury.

By way of Re-
port.
Theft.

Treason.

I arrest you for
Felonv, &c.
I charge him
with Felonv;
Sect. 6.

Treason.

Theft.

Felonv.

Theft.

So for words thus spoken, It will be proved by many vehement pre-
sumptions, that A. did steal the Horse of B. Pasche 7. Jac. B. R. Wel-
byes Case. Whitacres Case. Pasche 5. Jac.

So for this, I can prove you are a Theef, and ten men will justify it,
Pasche 15. Jac. B. R. So for this, I make no question but to prove that
hee hath poisoned my Aunt, &c. Noyes Rep. 63. So for words uttered
thus, I doubt not but to prove that hee hath spoken words of High Treas-
on. Serjeant Hitchams Case. Huttons Rep. 75. Winches. Rep. 124. Q^d
thus, I will prove Fermon to be a perjured Knave. Croo. 1. last publishr.
122. Q^d thus, I will prove you are a Theef. Yelverton 126. Q^d thus,
I did not know A. was your Brother, I will prove him perjured, or else
I will bear his charges. Popham. 210. So for this, I doubt not to prove you
are a Theef. Croo. 1. last publishr. 420. Q^d thus, I will bring you before
a Justice, and prove that you have stoln, &c. And yet it is said, that it
will not lye for this, I will prove that A. was perjured. Winch. 124. And
that it will lye for this, I could prove him perjured if I would. Yet see
Hobb. pl. 394.

This Action will lye also for words uttered by way of Report from o-
thers, thus (viz.) J. S. told mee that A. was a Theef. And in truth J. S.
did never tell him so. But if in truth J. S. did tell him so, then the words
are not actionable. Croo. 2. 407, 417. 413. Bulstr. 3. 225. Croo. 2. 103.
The Lady Morrisons Case. 5. Jac. B. R. Lord Norths Case. 41. Eliz. B. R.
But if in truth a slander be raised of a man, and one that is his friend tell
him of it and wish him to clear himself of it; this is not actionable. And yet if
in this case a man shall report such a thing generally, and not name the Au-
thor of the Report, the words will be actionable; and therefore it is said,
it will lye for words thus uttered, I have heard A. B. is a Traitor, if he
do not say by whom he heard it. So for words thus spoken, Did you not
hear that A. B. was guilty of Treason. Croo. 12. 34. Jenk. Centurie 8. Case
7. Leonards Rep. 187.

This Action will lye also for words uttered after this manner, viz. I
charge him with that Felonv. Pophams Rep. 110. 111. 150. Croo. 2.
312. Q^d thus, Bear witness I arrest you for Felonv. 17. Jac. B. R. Serles
Case. Croo. 4. 15. yet see the contrary, in Hobb. Rep. pl. 396. Popham
Rep. 110. 111. Hobb. Rep. pl. 286. 381. Q^d thus, I charge you with
Felonv, and I charge the Constable to take you; or, I arrest thee for high
Treason; some say this is actionable. Mich. 5. Jac. B. R. the contrary
seems to be in Huttons Rep. 38. And there held to lye for this, I accuse
J. S. of High Treason. Huttons Rep. 131. It is held to lye for this, Bring
me to the Constables house, for I am robbed, and I will bring him to the
house of J. S. to arrest him, for hee setteth them to rob mee from time to
time. So to say to a Constable, There hee is, take him, for I charge him
with that Felonv. Scyles 59. And yet for this it will not lye, I charge you
Kings with Felonv, and you Constable [Innuendo, A. &c.] to apprehend
him. Popham. Rep. 210. Yet see Hobb. pl. 286. 381. Q^d thus, If I
could finde J. S. I doubt not but within two daies to arrest him, of suspi-
tion of Felonv. Croo. 4. 15. Albeit hee do not say, Hee committed Felo-
ny. Popham 150. And yet some say, that it will not lye for these words,
I charge him with Felonv, &c. For for this, I have arrested A. for Felo-
ny, for stealing sheep of mine. Pophams Rep. 210. For for these words,
I charge you with Felonv, for taking mony out of the pocket of J. S.
Huttons Rep. 38. Hobb. Rep. pl. 381. 394. And yet if no Felonv be done,
it seems reasonable the words should be actionable. Brownl. 1. part 12.
Hobb. Rep. 38. But in case where a Felonv is done; And a man in a
course

course of Justice shall speak words to this purpose, I arrest thee for Felony; or, I will charge him with [or arrest him for] Felony, there the words will not be actionable. Popham Rep. 110. 111.

The Action will lye for words uttered after this manner, Thou hast been in the Gaol for stealing a Pan. Croo. 2. 155. Bulstr. 1. part 40. And yet it is said, it will not lye for this, Thou wast in Warwick Gaol for stealing of Horses. Noys Rep. 24. Bulstr. 1. part. Hutton. Rep. 2. Brownl. and Goldsb. 16. And yet it is held, it will lye for this, Thou wast in the Tower for High Treason. M. 9 Jac. B. R. if it be false that is said. Hobb. Rep. pl. 96. So it is said, it will lye for this, Shee is a very Theef as any that robbeth by the High way side. So for this, Shee is a worse Theef than any that robbeth by the High way side. Croo. 1. last publishr. 224.

Thou hast been in Gaol for, &c. Indicted, &c. Theft.

But it is said, it will not lye for words thus spoken, Thou wert arraigned for Felony, for stealing of a Horse. Bulstr. 1. part 40. For for this, Hee is in Warwick Gaol for stealing of a Mare. Hobb. Rep. 196. But if he say, Hee stole them, and was in Gaol for it; this may be actionable. For will it lye, for saying of a man, Hee was indicted [or arraigned] or impeached for Felony, if it be true; but if false, the words are actionable. Hobb. Rep. pl. 190. 196. 286.

Theft.

Or hee is in Gaol for, &c. He is indicted, arraigned, &c. Felony.

But it seems it will not lye for words thus spoken, viz. What is J. S. in Gaol for, for murder. Huttons Rep. 2. For for this, J. S. was in Newgate for forging of writs. Huttons Rep. 2. For for this, Thou wast whipt about Taunton [or burnt in the hand, or shoulder] for stealing Sheep. Hills Case. Mich. 8. Car. 1. B. R. For for this, Hee was detected for Perjury. Croo. 4. 16. For for this, Thou art a false Knave, thou wast arraigned for two Bullocks; or, for thou wast arraigned for stealing two Bullocks. Croo. 1. part last publishr. 279. For for this, Hee held up his hand at the Bar for Felony. See Brownl. 2. part 272. And therefore, where the Action is laid for such like words as these, Hee was indicted for Felony at W. Sessions; or, Hee was impeached for Felony; or, Hee was accused for Felony; the Plaintiff must aver, that there was re vera no such thing done, otherwise the Action will not lye. Hobb. Rep. pl. 196. 289.

Theft. Thou wast whipt, &c. Thou wast burnt in the hand, &c. Thou wast detected for, &c. Thou wast convicted for, &c. Hee held up his hand at the bar for, &c. Averment.

It is said, it will lye for this, I will indict him for stealing of my horse. Huttons Rep. 58.

It is said, that this Action will lye for this, I will pawn my shirt, I will hang him for, &c. Winches, Rep. 124. And yet it is said not to lye for this, It is in my power to hang thee. Palche 7. Jac. II. R. Brownl. 2. part. 280.

I can hang thee, &c.

So it is held to lye for these words, As sure as you beleeve God Rules the world, and the King rules the Kingdome, so sure did Whorewood steal my horse. Winch. Rep. 124. Hughes Abridgement. 37. So also for this, I am sure J. S. is a Theef.

Sure it is that J. S. is a Theef.

It is said, it will not lye for this, I have served thee with the Queens Letter for stealing of goods out of my Mothers house. Croo. 1. part. last publishr. 234.

So likewise for this, Masters, bear witness hee is a Theef. Huttons Rep. 39. But Quere of this.

Theft.

It is generally held, That the words that shall bear an Action, must be uttered in a language, that one of them (at the least) that do bear them do understand. And therefore that to call a man Theef in Welch, or in Latine, before such persons, neither of wholly do understand the tongue; that this will not bear an Action. And yet some would murdure this, for they may

Words spoken in an unknown language. Sect. 7. Theft.

By way of
Caution.
Treason.

Hee hath de-
served, &c.

I fear you will
be arrested, &c.
Felony.
I doubt you
will be found
guilty, &c.
Treason.
Treason.

Thou art as ve-
ry a Theef as a-
ny in the Gaol.
Avowment.
Theft.

Perjury.

I suspect you,
&c.
Sect. 8.
Theft.

Barretty.

may remember the word, and enquire, and so come to know what it is. Hobb. Rep. pl. 63. 276. 126. Hughes Abridgement. 37. Croo. Rep. 1. last publihr. 496. 497. 865. It is said, that this Action will not lye for words thus spoken; Take heed that you do not speak Treason. Bulstr. 1. 143.

It is said, it will lye for this, Hee hath deserved to stand on the Pillory. Bulstr. 1. part 147. And yet it is said, it will not lye for this, Thou deservest to be hanged. Mich. 4. Jac. B. R. Nor for this, Thou hast deserved hanging. Croo. 1. last publihr. 470. Nor for this, Hee will come home if hee escape the Gallows, for hee hath deserved to be hanged. Nor for this, If thou hadst thy Right, thou hadst been hanged. Brownl. 1. part. 3.

It is held, that the Action will not lye for these words thus spoken, I fear you will be charged with [or arrested for] Felony. Nor for words thus spoken, Take heed you be not arrested for Felony. Hobb. Rep. pl. 381. 286. Nor for words thus spoken, I doubt [or I fear] whether your words be not Treason, and I shall advise upon them. Bulstr. 1. part 143. 148.

It is held to lye for words thus spoken, I did tell Mr. Carne, that I am neither Traitor to my Prince, nor Rebel to my Country, as J. S. and the words are spoken to Mr. Coxell, albeit they were never spoken to Mr. Carne, nor to any but to Coxell himself. And so for this, If I say to A. Go tell B. hee is a Theef, albeit A. do never tell B. of it. Mich. 9. Jac. Foxes Cases B. R.

It is held that this Action will lye for words thus uttered, Thou art as very a Theef as any in Warwick Gaol [or as any in England.] So as hee avers, that there is a Theef in Warwick Gaol, or in England, and what Theef it is. But not otherwise. Nor will it lye for these words, If ever man was perjured, Williams was, because it appeareth not that any man was perjured. Bulstr. 1. part 40. Noys Rep. 116. Sed Quere of this last Case. Winches Rep. 70. 89.

It is said, this Action will not lye for words thus uttered, I suspect you for stealing of my horse. Huttons Rep. 18. 19. Nor for this, I doubt not to see J. S. indicted at the next Assizes for Barreny or Sheep-stealing, as George Bland, for hee was indicted at the last Assizes for stealing of Sheep. Albeit it was not said by the Plaintiff, that hee was not indicted. Huttons Rep. 18. 19.

But here we must add to the Cases before put upon this head, these following Cautions to be observed.

1 That in many of the Cases before mentioned under this head, the words there mentioned that are said not to be actionable in another Case; yet if they be spoken to a Justice of Peace, or some such like Officer, with reference to his Office, they may be actionable. Huttons Rep. 131.

2 That no Innuendo will alter the Case, or make the words not actionable in themselves, to be actionable, by the Innuendo.

3 That in some of the Cases before cited (as to the frame of words) not to be actionable, that there perhaps by the help of a Special Averment, added by the Plaintiff in his Declaration, the same words may be made actionable, and therein especially, wherein the Plaintiff shall afterwards have a verdict given for him also in the Case.

4 That in some of the Cases noted not to be actionable for the frame of the words, the precedent or subsequent words spoken at the same time with them, may make them actionable, for as the precedent and subsequent words may make actionable words spoken at the same time not actionable, so may they make words not actionable to be actionable.

5 That in many Cases where the words originally spoken for their in-
certainty

certainly may not be Actionable, yet after by the help of a Verdict for the Plaintiff in the Case, the Action may become maintainable.

6 That the Plaintiff must be very careful how he Declare in his Action upon any such words spoken, and the Defendant likewise how he pleads, for either of them may much disadvantage themselves thereby.

7 That many of these Cases seem very difficult, and questionable, and therefore it will be the wisdom of him that is to Sue in such a Case, to be well advised by the Lawyers therein.

And now we shall come to the Matter and Quality of the Slander it self, and herein we are to know, what we have before touched upon, That there are some Slanders that bring a man in danger of his life, and there are other Slanders that doe not bring a man in danger of his life, but they doe bring him in danger of some bodily harm; and there are other Slanders that doe neither bring him in danger of his life, nor of other bodily harm; but they bring him in danger of some other damage and prejudice in his Name, or Estate, or in both. Those that bring a man in danger of his life, doe carry in them some charge, either about matter of Treason, or about some other Felony; but herein we are to know, that there are some general words that may refer to both, or either of these, and may bee Actionable words, and therefore it is held, That this Action will lye for saying of a man, Hee is a Traitor, a Murtherer, a Thief, a Robber, a Church-robber, a Sacrileger, a House-robber, a Buggerer, a Sodomite, or the like, 30 Ass. 19 Dyer 19. 236. 27 H. 8. 14. 22. So for saying of a man, He hath committed High Treason, or Treason, or Murder, or Robbery, or Burglary, or Buggery, or Sacrilege, or the like. Dyer 19. 75. 236. Plow. 118. Jenk. Cent. 7. Case 70. Croo. 116. 27 H. 8. 14. Coe. 10. 130. and 4. 15. 16. 30 Ass. 19. Croo. 2. 275. 424. Bullstr. 2. 272.

Traitor.
Murtherer.
Thief.
Robber.
Church-robber
Sacrileger.
House-robber.
Buggerer.
Sodomite.

It seems to be agreed also, that this Action will lye, for saying of a man that He is a Felon, or that he hath committed Felony, Coe. 4. 17. Bullstr. 1. 148. Croo. 2. 312. And yet the contrary is affirmed by some, by whom it is held, that it will not lye for saying of a man, He is a Felon, or, he hath committed a Felony, unlesse he shew something wherein he is so, or hath so done, as that he stole a Horse, or the like, or that it is too general and incertain, for every man's name is a kind of Felony. But see for this, Huttons Rep. 38 Bendloes Rep. 202. Coe. 4. 15.

Felon.

But this is agreed on all sides, that these general words may bee so intermixt with other words of explication, and qualification, that they may not be Actionable at all; as to say, You are a Traytor, for I trusted you to buy Land for me, and you bought it for your self. Or, You are a Thief, for you robbed me of one of my Sentences out of one of my Books, or, of my Apples out of my Orchard; or, You are a Murtherer, for you killed forty Hares in one year, or the like. Huttons Rep. 69. 110. 113. Yelvertons Rep. 10. 155. Coe. 4. 13. 14. 16. But for the further opening of this, see what followeth in the next Section.

And as to the matter of the Slander it self, and the thing charged upon the slandered person, take these following Cases, referring to all kind of slanders. This Action will lye for this, Thou hast Sacrificed thy Childe to the Devil. So for this, He is infected of the Robbery lately committed, and smells of it; for the former, but not for the latter words. Dyer 317. Huttons Rep. 38.

4 As to the matter of the Slander it self.
Sect. 9.
Murder.
Robbery.

This Action will lye for this. Waterman and thou [Innuendo, the Plaintiff] hast killed thy Masters Cook [Innuendo, &c.] And I will bring thee in question for thy life. And that without any Averment, who was his Master, or that he had a Cook, for it is certaine enough without it.

Murder.

Theft.

Murther.

Pophams Rep. 128. Bridgeman 60. Stiles Rep. 66. So for this, Thou art a Thief, and hast robbed my Son; without Averment that he had, or hath a Son. Noys Rep. 55. So for this, Thou didst kill a Woman great with Childe [Innuend. uxorem cuiusdam. R. C. defunct. M. 2 Jac. B. R.

Felony by
Theft.
Averment.

This Action will lye for this, Long is a Murtherer, and hath bewitched my childe, and was the death of my childe, when a Verdict is found upon a not guilty for the Plaintiff. So for this, VWhosoever is the tallest thief, and the strongest in the County of S. whatsoever hee hath stoln or done, A. B. is taller than hee; so it bee applied by an Averment, that such a Felon is in the County of S. but not otherwise. So for this, Thou art a Thief, and hast stoln one Passions Lamb, and marked and denied it, albeit there be no Christian name to Passions; for the first words are Actionable. Huttons Rep. 109. It is said it will lye for this, Thou art a concealer of Felonies. Bulstr. 1. 148.

Felony.

Forgery.

Cousening.

It is said to lye for saying of an Attorney, He was cooped for forging of VVrits. 31 Eliz. in Nowels Case. Huttons Rep. 58.

It will not lye for this, Hee hath cousened the Town of S. [or, hath made a false account.] But if he be an Officer of whom the words bee spoken, it is more doubtful. Bulstr. 1 Part. 228, 229.

Perjury.

Theft.

In the Dis-
junctive De-
claration.

It seemes it will not lye for these words, He is a base beggerly Ras- cal and hath cousened the Parliament a hundred times, and deserves to ride on the Wooden Horse on Sandhil. Stiles Rep. 422. For for these words, Old Aphorp is a perjured Knave, for he did swear that such wood was worth forty shillings, whereas it was dear of a mark. Bulstr. 3. 150.

This Action will not lye for saying, Thou art a false Thief, Rogue, or some such like thing. Brooks Action of the Case, 112. and therefore where the Declaration, That the Defendant spake such words in certain, Vel verba similia; this is naught. For will it lye for this, Thou hast stoln my Mare, or consentedst to the stealing of her. Croo. 1. last pub- lishr. 780.

Cousening.

Bankrupt.

But where it is said in the Declaration, that the Defendant spake of a Merchant, Thou art a cousening Knave, and a Bankrupt Knave, ac eadem verba, aut alia iis similia sepius repetivit, in this case it is good; for the first words are certaine and Actionable, 41 Eliz. Co. B. March in Sland- ers, 2 part 8. Golsb. Pl. 11. Hill 41. Eliz. Co. B.

Theft.

For will the Action lye for these words, Thou hast stoln my Mare, or was consenting to it. Noys Rep. 172.

Murder

Deceit.

This Action will not lye for saying, He hath killed J. S. where there was never any such man known as J. S. Godb. 181. Pophams Rep. 128. For for saying to a Bayliff, Thou dost serve false VVarrants, and de- ceivest the people. See it in Croo. 1. last publishr. 192. For for this, You make false Records, and justifie them for true. For for this, Thou art a Papist, and not the Queens friend. For for this, Thou hast broken my shop, and taken my goods, and an Innuendo will not make them Actionable. Croo. Idem.

Innuendo.

Theft.

Felony.

This Action will not lye for saying, He hath cut my Wives Purse, and his Father knew it, and his Father knowing of it received it of him, and the Money and Rings therein. But if he add this further, and therefore I charge him with that Felony, it may be Actionable. And yet it is said it will not lye for this, A. did see B. that had committed Felony, and did suffer him to escape, I charge him of Felony, Popham. Rep. 111.

Theft.

For will it lye for this, Thou art a Thief, and that will bee proved by the Apples thou hadst off my trees. Yelversons Rep. 10. 34.

It is doubted whether it will lye for this, Thou art a Knave of Record, Forgery, and a forgering Knave. For forgering is altogether incertain. Hill. 1. Car. B. R.

This Action will lye, for saying of a man, Hee hath been a Theef. So for saying, Hee hath committed perjury. But for saying, J. S. was a Theef; D₁, J. S. had been a Theef: D₂, of a Justice of Peace, Hee had been a debauched man, &c. D₃ of any man, Hee hath had the Pox, or the Plague; it seems none of these words are actionable, for it may be otherwise with him now. Noys Rep. 151. Stiles Rep. 22. 23. 210. 24. 25. Eliz. Co. B.

It will lye against a woman Covert, for saying, Thou art a Theef for stealing my Corn out of my Barn, albeit it cannot properly be said to be her Corn. Stiles Rep. 135.

This Action will not lye, for saying, Hee did break open the Trunk of A. with the tools of J. S. and took out twenty pound, for this may be a taking as a Trespassor. So it is said of these words, Hee is an arrant Theef, for hee did break open the Trunk of A. with the tools of J. S. and took out twenty pound, and that these latter words do mitigate the former. Winch. Rep. 70.

This Action will not lye for such words as these, Thou deservest to be hanged; D₁, thou wast cubbed up for forging of Writs. Croo. 1. part last publishr. D₂, it is in my power to hang thee; D₃, thou seekest my life. Coe. 4. 15. D₄, thou didst bear away my goods; D₅, thou didst carry away my goods. Hobb. Rep. 236. D₆, hee took my money with a strong hand. Mich. 15. Car. 1. B. R. D₇, hee forged a Writing [or a Warrant.] Huttons Rep. 39. Hobb. Rep. 4. 48. D₈, hee hath killed a man, not naming any man. Popham. Rep. 188. D₉, thou didst cut my purse. Popham. Rep. 110. D₁₀, thou art a Cut-purse. For every Glove is so. Godb. 181. For for this, Thou wast the cause that J. S. did hang himself [or did cut his own throat.] Heelyes Rep. 70. For these words are all of them too general, and incertain. Hobb. Rep. pl. 236. So it is said for these words, Thou hast bewitched a man; D₁, thou hast bewitched my good man. And yet it is said, to lye for this, Thou hast bewitched a man; D₂, thou hast killed a man by witchcraft. Stiles Rep. 106. It is said, it will not lye for these words, Hee is a filching fellow, and did filch four pound from mee. Hutton. 34. D₃, thou art a filching fellow, and didst filch from A. B. one hundred pound. Hobb. pl. 323.

For for this, Hee is a priggling pilfiring Merchant, and hath pilfired away my Corn and my Goods from my Wife and my Servants, and this I will stand to. Owens Rep. 57.

For for this, Thou hast stollen a peece, and I will charge thee with Felony, for it may be a peece of any thing; Popham. 187.

For for this, Thou didst carry away my Sheep on thy back. Huttons Rep. 8. Some Judges have held, That for saying, Thou hast killed J. S. no Action will lye, for the words are too general, and hee may come to his death by execution, Physick, battel, &c. But the general opinion of the Judges is, that the words are actionable. See Croo. 2. 306. Godb. Rep. pl. 257. Heley Rep. 70. Coe. 4. 16. Snaggs Case. Popham. 187. Croo. 2. 438. Bulstr. 1. 42. Croo. 1. 352.

And yet to say to one, Thou art a Healer of Felonies, Mainsworne, Out-putter, Sheep-Theef, or the like in the Country where the use and meaning of the words are known to be scandalous, will bear Action. And so for Slanders in the Welch, or in other languages, the Action will lye for them, and that without Averment of the sense of the words in the Country. Hobb.

Forgery.

Perjury.

Murder.

Theft.

Murder.

Hobb. Rep. pl. 155. 236. Goldsb. and Brownl. 4. 6. Croo. 1. part last publishr. 250.

This Action will not lye for these words, I have matter enough against thee, for J. H. hath found Forgery against thee, and can prove it, Huttons Rep. 39. For for this, Thou art a perjured Knave, and that will be proved by a stake that standeth between the ground of J. S. and J. D. Yelvertons Rep. 10. 34. Lewis Case. Pasche 1. Jac. B. R. For for this, said of a man sworn in a Cause before a Judge, Hee was disproved before the Justices of Assize at Darby before Kingsly. Owens Rep. 58.

For these words are some of them incertain, and some of them insensible.

For for these words, That Prichard which serveth Mrs. Shelley did murder John Adams childe. And in the Count it is thus, Quendam Isabellam Addams modo defunct. filiam cujusdam Johannis Addams of W. in the County of G. Innuend.] for it should have been true, and not modo defunct. Croo. 13. 71.

The Plaintiff declares, that the Defendant dixit de præfat. The Plaintiff, Thou [Innuendo the Plaintiff] hast stoln goods, &c. and this after not guilty, and a verdict for the Plaintiff was held good enough. Palch. 5. Jac. Stones Case.

And so where two talk of one Tooles wife, hee being lately dead, and the one saith to the other, Tooles wife [Innuendo the Plaintiff] killed thy Husband [Innuendo. one J. D. her Husband lately dead; this is actionable, Croo. 1. 352. Croo. 2. 366.

But here we must also add to the Cases put upon this head, the same Cautions we gave upon the last head.

1 That in many of these Cases where the words spoken to ordinary men are not actionable, yet spoken to a Justice of Peace, or such like Officer, they may be actionable.

2 That an Innuendo will not make any unactionable words actionable.

3 That an Avertment, and especially if there be a verdict found upon it, for the Plaintiff, may in some Cases make words otherwise unactionable, to be actionable.

4 That precedent or subsequent words may make words in themselves doubtful, and incertain, and unactionable, certain and clear, and so actionable.

5 That in all Cases of uncertain and doubtful words, the Plaintiff must be very careful how he doth declare, and the defendant must be careful how he doth plead.

6 That there being some difficulty in many of these Cases it will be his wisdom, that is to bring his Actions in the same Case for the same words, that hee be well advised in it.

It is said in Croo. 1. 201. That this Action was brought against a man for that hee had maliciously and falsely imposed a Crime of Felony upon the Plaintiff, and caused him to be arrested for it, and that it was adjudged good. Croo. 1. 201.

We shall now descend to the particulars before named. And 1 To slanderous words about matter of Treason.

CHAP. VI.

Of words of Slander about matter of Treason.

Treason, what it is.

For the opening of this particular about slanderous words, that have an import in them of any matter of Treason, or of any thing about it,

We

We are to know first of all, That Treason (in the eye of our Law) is a great Crime, and the punishment appointed by the Law to be inflicted on him that doth commit this offence, is the loss of his life, and all his estate whatsoever. If any man therefore shall by slanderous words charge another man with this Crime, or any thing like unto it, the party slandered may have this Action to relieve himself by damages to be recovered therein for this wrong.

And therefore it is held, that this Action will lye, for calling of another Traitor, or Traitor-Knave. 30. Aff. 19. 27. H. 8. 9. 14. 27. 26. H. 8. 9. Co. 4. 17. Or for saying of another, Hee hath committed Treason—or the like. So for saying, There is no King in England. Croo. 2. 407. Traitor.
Committed Treason. So for this, I doubt not but to prove that hee hath spoken Treason. Sergeant Hetchum Case. Hutches Rep. 75. So for this, Thou hast spoken Treason, and I shall hang thee for it. 9. Jac. Beriffords Case. B. R. Bullstr. 1. part 148. So for this, Thou hast spoken Treason, and I will prove it. Croo. 2. 235. Spoken Treason. But it will not lye for this, Take heed you do not speak Treason. Nor for this, I fear you have spoken Treason, and shall advise upon it. Nor for this, I doubt you have spoken Treason, and I shall advise upon it. Bullstr. 1. part 148. Trin. 9. Jac. Benefords Case. Killed the King. This Action will lye for saying, Thou hast killed the King. Popham Rep. 187.

So it will lye for saying, Thou hast committed Treason beyond the Seas, and didst run away from thy Captain. Lewis Case. Croo. 2. 424.

So it will lye for this, Go tell Mr. Carns that I am neither Traitor to my Prince, nor Rebel to my Country, as J. S. is, it will lye for J. S. in this Case. Mich. 9. Jac. Rebels.

So it is said, it will lye for saying of a Justice of Peace, Deputy Lieutenant, a Servant of the Kings Person, or any such eminent person, that hee is no true Subject. But otherwise it is if they be spoken of an ordinary person. See for this, Croo. 1. last publisht. 621. Croo. 2. 202. Walgraves Case. Bullstr. 3. 221. Yelvertons Rep. 104. Mich. 32. 33. Eliz. Co. B. Smiths Case. Goldsb. Rep. 441. But this, I am put out of the Parsonage house by Fowler, the Patron, who is neither the Queens friend, nor a true Subject, was held not actionable. Croo. 1. last publisht. 268. No true Subject.

So it is said to lye for this, Thou art an enemy to the State of this Realm. Croo. 1. last publisht. 602. Hill. 40. Eliz. Co. B. Chambers Case. 38. Eliz. B. R. So for this, I was never a Traitor to the State, as you have been. Lamplews Case. See Stiles Rep. 435. But it will not lye for saying of a man, Hee is a Rebel. 44. Eliz. Fountain and Grimes Case. Croo. 1. last publisht. 621. Rebel.
Rebel.

So it seems it will lye for saying to one, Thou art a Rebel, and all that keep thee company are Rebels, and thou art not the Queens friend, for all this together. And yet it seems it will not lye for either part of these words alone. Croo. 1. part last publisht. 638. 876. Rebel.

So it is said to lye for this, Thou dost harbour and maintain Rebels and Traitors. And this albeit hee do not say, Knowing them to be such. Goldsb. Rep. pl. 7. 48. See chap. 10. Sect. 10. Maintain Rebels.

So it is held, it will lye for this, Thou wast partaker with the Rebels in the North in their Rebellion. But not for saying, Thou wast partaker with the Rebels in the North, without more words; for this is altogether uncertain. Bullstrode 2. part 109. Partake with Rebels.
Uncertainty.

So for this, My Lord President in the North shewed Mr. Stapleton his hand set to a Book, whereby hee had consented to the late Rebels in the North, but by the means of Mr. Fairfax, my Lord President was perswaded, and the matter was suppressed. But if the words had been thus, Hee consented consented

consented to A. and B. (who were Rebels) and no more; perhaps they might not be actionable. As where it was said of one, Hee was confederate with Campian the Jesuite; these words (it is said) are not actionable, for hee might not know him to be a Jesuite. Croo. 1. last publisht. 251. 26. Eliz. inter Brown. & Lisle.

By Report.
Sect. 2.

So it will lye for this, That John Peirse did say, that John Lewis (the Plaintiff) did say, that there is no Prince in England; with this Averment, that John Peirse never spake any such words. Lewis Case. Croo. 2. 407. 413. 427. Bulltr. 3. 225. But to say, I have heard that A. B. is a Traitor. If he say by whom hee heard it, and re vera hee did hear it; it is not actionable. Croo. 2. 407.

No true Sub-
ject.

So it will lye for a Master, for these words spoken to his Servant, Thou hast a Traitor to thy Master. Innuendo the Plaintiff. Croo. 1. part last publisht. 906. So for this, It is well known that I am a true Subject, but thou servest no true Subject. [Innuendo. W. W. Croo. 1. last publisht. 191.

Opinion only.
Kill the King.
Maintaineſt
Rebels.

So it is held, it will lye for this, I am perswaded in my conscience [or I think in my conscience] thou wouldest, it thou couldest kill the King, and all his Subjects, and thou art a maintainer of Papists and Rebelious persons. Croo. 2. 407. Sydnams Case. See Hobb. Rep. pl. 152. 180. Bulltr. 3. 260.

Inclination.

It is said in Godb. Rep. 147. to be adjudged not to lye for these words, Thou art an arrant Papist, and it were no matter if such were hanged, and thou, and such as thou, wouldest pull the King out of his seat.

Adjective
words.

But this Action will not lye for such words as these, Hee is a seditious Knave. For as it hath been said, for this, Hee is a Rebelious Knave, or he is a traiterous Knave. Croo. 4. 19. Bulltr. 2. part 210. And yet it is said, it will lye for saying of a man, Hee is a rebellious and traiterous Knave. See 4. Croo. 1. part last publisht. 171.

For will this Action lye for this, Thou hast dealt treacherously with mee. But to say, Thou hast dealt treacherously with the King, are dangerous words, and may be actionable. Croo. 2. 80. Yelvertons Rep. 72.

Under qualifi-
cation by other
words.

For will it lye for these words, Thou art a Traitor, for I trusted thee to buy Land for mee, and thou boughtest it for thy self. Croo. 4. 14. 15. 16. See in March. Rep. 20.

Sedition.

For for this, Thou art a Traitor, for thou didst affirm that the Kings Coin was fals a noble in the pound. In Bulltr. 265. For for this, Thou hast killed thy wife, and art a Traitor for it. Croo. 4. 13. 16.

Uncertainty in
the person.

It is said, that it will not lye for this, Hee is one that doth like of those that do maintain sedition against the King. See Croo. 4. 13. 19. Croo. 2. 80. 81. And yet if it be of a great man, or the conference be about the great, publick, and violent Sedition, as the word doth most properly import, they may be actionable. Croo. 4. 13. Lord Cromwells Case. For will it lye for saying, One of the servants of A. B. (if he have more than one servant) or one that is near to A. B. is a Traitor. For it is altogether uncertain, who it is that is intended by this speech. And no Innuendo can ascertain it. Croo. 4. 17.

Innuendo.

About coining
of money.
Sect. 3.

This Action will lye for these words, Thou art a Coiner of false money, and I have money to shew which thou coynedst. Croo. 1. part last publisht. 629.

So for these words, Thou wast in Lancaster Gaol for coyning. To the which the party accused answered; I was there, and answered it well enough. And then he replied, You were burnt in the hand for it. Croo. 2. 136.

But

But it will not lye for saying any such words as these, Thou art a coyn-ner of Money, or, thou coynest gold, or, thou art a coyn-ner of gold; or, thou mayest well be rich, for thou coynest thirty shillings in a day; for a man may coyn by authority, and it may be his trade. Mich. 9. Jac. Burnels Case. See the Cases reported in Godb. Rep. pl. 234, 375, 391.

It is said, this Action will lye for this, Thou hast forged a Privie Seal, About Forging the Kings Seal. Croo. 1. 157. But not for these words, Thou hast made the Great Seal, Hobb. Rep. pl. 48.

But upon this Head these things are to be known.

1 That in some of the Cases, and for some of the words said not to be Actionable, if so it be that the Party of whom they are spoken have any special damage by them, he may perhaps in that Case have this Action for his damage.

2 In all the Cases before named, and in other Cases for words of the like nature, with the words before mentioned that doe bear Action, the Plaintiffe need not shew any losse he hath sustained by them, for his Action will lye without this. Averment.

3 All the Actions that are brought for words of this nature, are and must be subject to the general Rules before laid down, viz. they must be malicious, false, particular, certain, positive, of a single, and clear intendment, under a capacity of Qualification, by the precedent and subsequent words spoken with them, and hold forth an Act done, and not an intent only; for albeit the words in themselves be Actionable, yet if they be incertain in the person of whom they are spoken, or the like, they may not be Actionable.

CHAP. VII.

Of words of Slander about matter of Murder.

For the opening of this particular about Slanderous words, that have an import of any matter of Murder in them, wee are to know, That Murder is a great Crime, and the punishment appointed by the Law for it is great, the losse of the life, and the whole estate. If any man therefore doe by slanderous words charge another with this Crime, or any thing like unto it, he may have his remedy against him by this Action. Murder, what it is. Sect. 1.

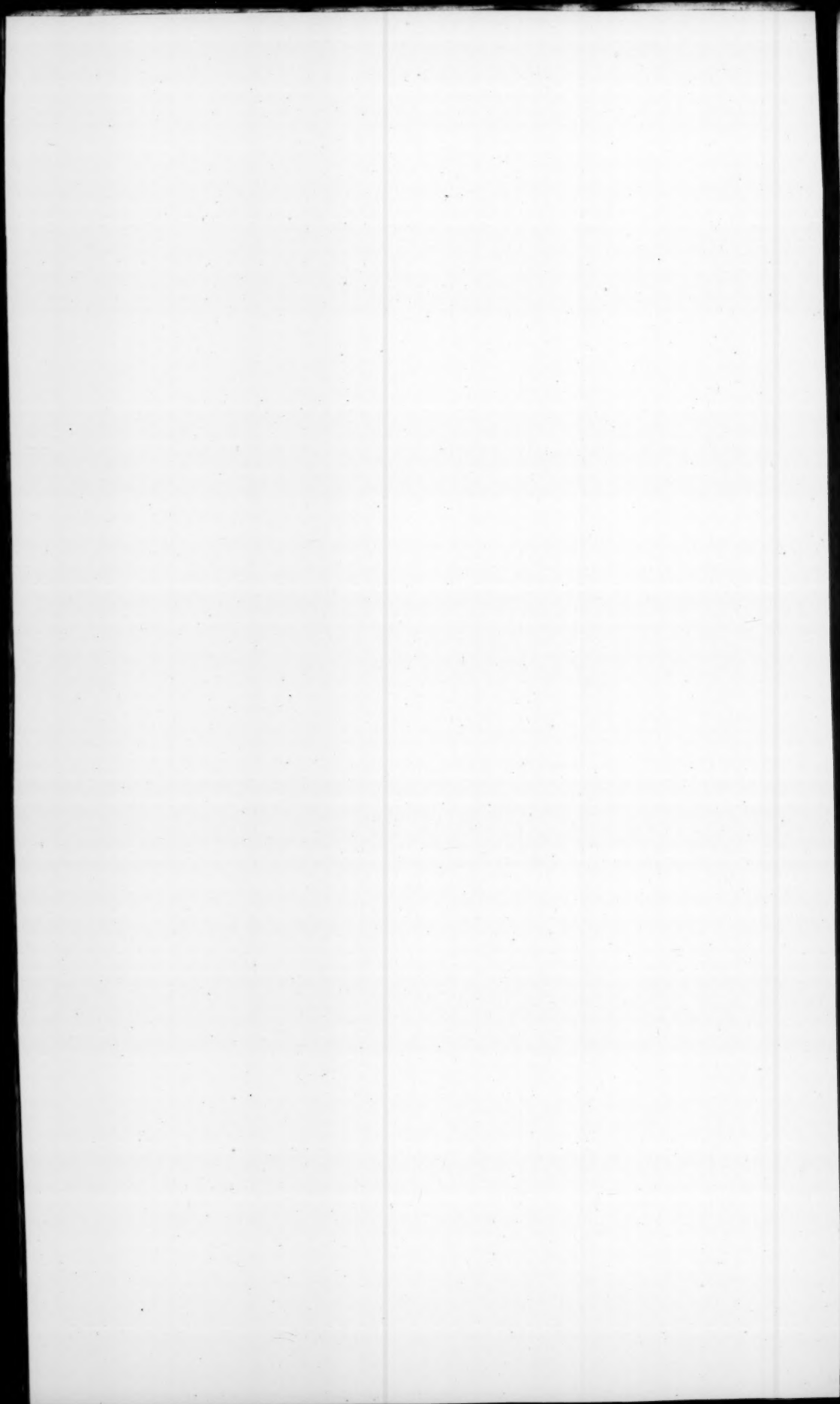
And therefore it is held that this Action will lye against a man for saying of another, That he is a Murderer; Or for saying, that he hath committed Murder. Croo. 10. 130. and 4. 15. Dyer 236. See Owen. 33. So for this, Thou art a Murdering Knave. Croo. 1. 132, 133. So for this, Thou art a long shag-haired Murdering Rogue. Greenes Case, 9 Cal. 1. B. R. So for this, He is a Man-slayer, and hath laine in wait to kill. 28 Eliz. B. R. Harris and Dixons Case. So for this, He is a maintainer of Murderers. Croo. 4. 14. See Chap. 10. Sect. 10. Murderer.

So it will lye for saying this, Thou hast killed J. S. Or, Thou hast Murdred J. S. Or, Thou hast poysoned J. S. Or, Thou hast killed thy Husband, or the like. Croo. 2. 352. 438. Croo. 4. 16. And yet some have held it otherwise for the first words, Thou hast killed J. S. Croo. 1. 306. in Godb. 257. see after Sect. 3. Poyson.

It is held it will lye for this, I will call him in question for the poysoning of my Aunt, and I make no question but to prove that hee hath poysoned her. In a Case cited in Noys Rep. 63. 39 Eliz. Webbs Case. For the manner of utterance of the words. Croo. 1. part last published. 169.

So for this, It will be proved by many vehement presumptions, that

- A. B. was the Plotter of the death of C. D. Pasche, 7. Jac. B. R. in Yelvertons Rep. 153.
- Poyson.** It is held it will lye for this, I have said that J. S. hath poysoned her husband, and I will iustifie it, and I have told her so much to her face. Croo. 2. 438.
- Incertainty.** It is held it will lye for these words said by a Servant, Thou hast killed my Masters Cook [with this in the Declaration, Innuendo, I. H. Servant to Mr. Dingley, who was murdered; and the Count was held good in this Case without any Averment who was his Master; or that Mr. Dingley was Master to him that was slain. Croo. 2. 422. So for this, Sir Thomas Coke hath killed his Cook, without any Averment that his Cook is dead, Pasche. 1. Jac. B. R. Sir Tho. Holts Case. So for this, Thou didst kill a Woman great with childe, with this Addition in the Declaration, Innuendo, uxorem cujuldam R. S. defunct. and this was held to be certaine enough, Mich. 2. Jac. B. R.
- Averment.**
- Averment.**
- Certainty.** It hath been held it will lye for this, Hee took my Wife by the hand and said, Thou and I will be married shortly; and after that he dispatch't his Wife out of the way. Coe. 4. 16.
- So for this said of A. A. [the Plaintiffe Innuendo] was with childe before she was married, and betwixt her Mother and her they murdered it, which childe was born alive, and heard cry; it is said the Action lies. Eves Case in Bendloes Rep. 152.
- So for this, Hee is infected with the Murther lately committed, and doth smell of it. Dyer 317.
- So for this, Thou art a base Fellow, and didst kil thy first Wife. Bernards Case, B. R. in Stiles Rep. 227.
- Averment.** So for this, Thou art a Murtherer, for thou art the Fellow that didst kill Mr. Sydnams Man. But then the Plaintiffe must be sure in his Declaration, one way or other to shew, that one of his Servants was slain. Croo. 1. last publisht, 331.
- Ave. ment.** It will lye for these words, Thou hast sought the blood of my Husband, and wast his death, for if thou hadst been an honest Woman, hee had been alive yet; Croo. 1. part last publisht. 239. But in this Case in the Action brought, the Plaintiffe must aver that he is dead.
- It is held it will lye for this, He came to such a house, where one lay sick upon his bed, and got upon the bed, and with his knee did break his bloud-bulk, and that thereby he had killed him. See Bulstr. 1. part 42.
- So it is said it will lye for this, to say, A. is a Felon, and one standing by said, Take heed what you say, and then he saith, Is not hee a Felon that knew of a Murder and concealed it. And he knew of the Murder of A. B. and did not reveal it till long after it was openly known. In Yelvertons Rep. 154.
- Concealing Murder. Sect. 2.** So for this, where two or three Colliers were burnt in a house, and some were executed for it, and one said of the Plaintiffe, Thou didst bring Faggots a mile and a halfe to the burning of the Colliers. It is said an Action will lye for this. In Huttons Rep. 122.
- Concealing Murder.** So for this, There was a man killed in the house of A. and she concealed the Murther. In Stiles Rep. 392. and yet it is said it will not lye for this, He is a Felon, for he knoweth of a Murder and concealeth it.
- So it will lye for this, The Knave, the Apothecary that married my Sister hath poysoned my Uncle, and I will have him taken up againe to hang him. In Stiles Rep. 245.
- So it is said to be held to lye for this, A. B. was found dead, and you killed him, In Hetleys Rep. 70.



It is said, it hath been held to lye for this, One told mee that thee heard By Report. say, that Megs wife poisoned her Husband, in a Masse of milk, with this Averment, that nullus dixit, &c. It is so reported by Goldsb. 139. Bend. Averment. loes Rep. 152. So for this, A. said that B. did report, that your Wife sacrificed her child to the Devil, to make away my mother. Pasche. 15. Jac. LocksCase.

It is said, it will not lye for this, Thou dost lead a life in manner of a Rogue, I doubt not but to see thee hanged for striking of Mr. Sydnams man, who was murdered. Mich. 11. Jac. in Scaccario. Incertainty.

It is said, that it hath been held to lye for this, Keynor is a base Gentleman, hee hath four children by his servant Agnes, and hee hath killed them, or caused them to be killed. In Pophams Rep. 187.

It will not lye for this, A. struck his Cook on the head with a Cleaver, and cleaved his head, the one part lay on the one shoulder, and the other part lay on the other shoulder. Croo. 2. 184. Incertainty.

For for this, If two be speaking of the killing of Hares with Engines, and with reference to this; the one of them doth say to him that hath so done, Hee is a murdherer; in this case the subject matter of the discourse shews his meaning, and will qualifie the words, that they shall not be actionable. Under qualification.
Coo. 4. 14.

It is said to have been agreed to lye for this, That where two are talking together of a Suit wherein the Plaintiff and others were Defendants; And in that discourse the Defendants used these words, These Defendants [Innuendo the Plaintiff and the other Defendants] are those that did help to murder H. Parrer. [Innuendo H. P. lately deceased] who was murdered by one T. H. who was hanged for it. In Hobb. Rep. pl. 118. And it was there held, that the words were certain enough as to the persons charged. But if there be three present, and one say to them, One of you three killed J. S. Or if one say, One of the servants of A. B. (who hath many servants) murdered J. S. this is altogether incertain, and not actionable. Certainty in the person charged.
Fleetwoods Case in Hobb. Rep. 375. 351. Incertainty.

It is said, that it hath been held to lye for this, Mrs. Passfield did write a Letter to one to poison her Husband. In Bulstr. 1. part 2. Some doubt of this Case. Yet see Finches Law. 186. Attempt or endeavour of Murder.

It is said, it hath been held to lye for this, thou didst place a woman in the house of J. S. to the intent to poison her. In Bulstr. 1. part 201. Finches Law. 186. So for this, Shee would have cut her husbands throat, and did attempt to do it. But that it will not lye for the first words. Lanes Rep. 98. Sect. 3.

So for this, A. sent a Letter to my Master, and therein willed him to poison his wife. Croo. 1. part last publishr. 747.

So for this, thou didst lye in wait to assault mee, with an intent to kill [or to rob] mee. Mich. 4. Jac. and Pasche. 5. Jac. B. R. See in Bulstr. 2. part 206. Murreys Case.

So for this, thou didst procure one to lye in wait to murder mee. See Bulstr. 2. part 20. the contrary.

So for this, thou didst hire one to kill mee. Trin. 33. Eliz. B. R. Surtons Case. Yet see Croo. 3. 1. part last publishr. 191. where the Court seemed to hold the contrary to this. And yet there the Court agreed, that it will lye for this. Tabbot and Gough agreed to have hired a man to kill mee; And that Gough should shew mee to the hired man to kill mee. See the Report of one Murreys Case, in Bulstr. 2. part 206. which seems to oppose this.

So for this, thou didst lye in wait to kill mee with a Pistol. Pasche. 5. Jac.

Jac. B. R. So for this, thou didst send one to kill mee. Trin. 33. Eliz. B. R. Or thou didst send one to my house to kill mee. Yet see Murreys Case before named.

So for this, thou soughtest the life of J. S. If hee be dead. Mich. 7. Jac. Weblins Case. Yet see Co. 4. 15. So for this, hee sought my innocent blood. Sir Edward Hertburys Case. B. R. see Co. 4. 15.

So for this, My Lord Lumley hath gone about to take away my life against all Christian dealing. Co. 4. 16. 15. Hext Case. which seems in the case and reason of it to be against these cases.

So for this, My Lady Cockin offered to give poison to one to kill the childe in her body. 32. 33. Eliz. Co. 4. 16. See in this Bulstr. 2. part 206.

So for this, If I had consented to Mr. Cardinal T. H. had not been alive [or had been dispatcht out of the way.] Cardinals Case. Co. 4. 16.

So for this. A. did prepare poison to kill mee. Yelvertons Rep. 90.

But it is said, it will not lye for this, Sir Francis Beaumont did come to the house of Sir John Harper, and that hee and his servants went about to kill Sir John Harper, and that hee did maintain them, and that Sir John Harper may not have this Action for this. But if hee say hee did maintain them to that intent, or that any thing were done that way, it might happily be actionable. Bulstr. 3. part 167.

Inclination or
purpose only.

And so generally in all cases, where the words do import an intent, joynd with any overt Act of Attempt, or Endeavour, there the words will be actionable. But, a Charge of an Inclination, or Purpose only to do a murder without any Act of endeavour or attempt, is not actionable. Co. 4. 18. And therefore it would not lye for this, He gave his Champion counsel to make a Deed of Gift of his goods to kill mee, and then to fly out of the Country, but God preserved mee. Co. 4. 18. Bulstr. 2. part 206.

And it is said, it hath been held not to lye for this, Thou wouldst have killed mee. Trin. 4. Jac. B. R. for this is only punishable in case of Treason. Croo. 2. 407. Hobb. pl. 152. 180.

Uncertainty in
words.
General words.

For for this, Shee would have cut her husbands throat. Lanes Rep. 98. Bulstr. 2. part 206.

For for this, Hee had a minde to have killed mee. Bulstr. 2. part. 206.

For for this, Hee hath killed a man; For this hee may do as a Minister of Justice, or in the wars, or se defendendo, &c. Trin. 17. Car. B. R. And yet see the contrary before Sect. 1. Croo. 2. 352. 438. Co. 4. 16.

Words general,
and uncertain.

For for this, Thou hast procured a perjured Knave to seek my blood. 32. Eliz. B. R. Sir Edward Hastings Case. In Hobb. Rep. 196. 332.

For for this, Thou wert the death of J. S. or, thou wast the cause of his death; or, thou wast the cause that hee hanged himself, or cut his own throat. Croo. 1. last publisht. 239. See in Hetleys Rep. 70.

For will this Action lye for such words as these, Thou seekest my life. Co. 4. 15. Yet see before some Cases, that seem to contradict this. For for this, Hee seeketh my blood. Sir Edward Hertburys Case. See March of Slanders, part 2. 6. For for this, Thou wentest about to poison a childe. Eatons Case. For for this, Hee smells of the Murder of J. S. Dyer. 317. For for this, To say of one that is dead, J. S. was the cause of his death, and I will swear it on a Book. And yet if the discourse which occasioned the words, were about the Murder of him that is dead, the words are more dangerous. Bulstr. 2. part 10. 11.

Sect. 4.

For in all these latter Cases the words are too general and uncertain to maintain the Action.

It is said, it will lye for these words, Thou hast poisoned J. S. And this

this albeit hee be alive, or it appear hee is alive. For poison may break out upon him, and hee may escape. In Bullstr. 1. part 42. In Yelvertons Rep. 21.

So for this, Thou didst poison J. S. and it shall cost mee a hundred pound, or I will hang thee for it. New Book of Entries. 25. Yet see Hobb. Rep. pl. 11. And there it is held, that it must be said, that hee did it willingly, or it is not actionable.

Poison.

It is said, it will not lye for this, A. B. gave C. D. mony to shift him away as soon as he had killed R. T. Parranis Case. B. R. Quere of this.

But it is held, that the Action will not lye for these words, Thou hast killed my Wife, and art a Traitor for it. For saying, thou hast killed thy Wife, for the words import that shee is alive at the time of the words spoken. But otherwise perhaps it may be if shee be re vera dead, and the Plaintiff do set it forth to be so in his Declaration. Co. 4. 13. 16. Hill. 39. Eliz. Co. B. Bullstr. 3. part 167. Pasche. 5. Jac. B. R. Holr and Taylors Case. So it is in other Cases when it both not appear in an Action brought for such words importing a Charge of killing another, that the party it is said hee killed was dead at the time of the words spoken. In Hobb. Rep. 8. Trin. 17. Car. 1. Co. B.

Words of contradiction.

For for this, Thou art a blood-sucker, and seekest my blood. For this, Hee is a blood-sucker, not worthy to live in a Common-wealth, and his childe nor born is bound to curse him. As it is reported by Noy 64. and in Popham. 177.

Blood-sucker.

For for this, Thou art a cut-throat. In Bullstr. 3. part 265.

Cut-throats.

For for this, Thou art a companion of cut-throats. Croo. 1. last published. 554.

But upon this head this also is to be known.

1. That in some of the Cases, and for some of the words herein said not to be actionable, if so it be, that the party of whom they are spoken, have any special damage by them, hee may perhaps in such a case have an Action for the words.

2. In all the Cases before named, and in other Cases of like nature with the words before mentioned, that are actionable words, the Plaintiff is not bound to set forth in his Declaration any special losse hee hath sustained by the words, for the Action is maintainable without it.

3. That in all the Cases of actionable words, they must be under the general Rules, viz. the words they must be false, malicious, particular, univocal, positive, and certain, and such as import some Act done. For if they do not appear to be so, but they be true, or spoken in a way of Justice, or the like, that they appear not to be malicious, or be altogether incertain, either in the person, or thing, or be under a qualification by other words spoken at the same time, or import only an intent to do something, but nothing is done, or the like, no Action will lye upon them.

Avowment.

4. That the Plaintiff in his Action brought for such words as these, is not bound to say, or set forth that the Charge by the words did import a malicious, voluntary, or willing Murder, or that the party said to be murdered, is dead, or died within the year. But this is certain, That where the Action is brought for words of import, to charge the Plaintiff with the killing of a man, it will be the sure way for the Plaintiff in his Declaration, to shew that hee is dead, and was so when the words were spoken. Or if hee do not so, then it will be the wisdom of the Defendant in his pleading, to shew hee is yet alive, or was alive when the words were spoken; for then no Action will lye upon them. Co. 4. 16. Croo. 2. 252. Yelverton. 20. 21. Croo. 1. part last published. 823. Croo. 2. 438. Bullstr. 1. part 42. Hobb. Rep. pl. 11. New Book of Entries. fol. 24.

CHAP. VIII.

Of words of Slander, about Matter of Witchcraft.

Witchcraft,
what it is,
Sect. 1.

This offence of Witchcraft, by the use of Invocation, or Conjurat[i]on of evil Spirits, to take up any part of a dead person to be used in any Witchcraft, and used to kill, or lame any person is felony. To take upon one by Witchcraft, and such like waies, to discover any thing lost, or any treasure, to provoke to unlawful love, or to destroy, or hurt any person, cattle, or goods, is a great offence and very penal: If any man therefore shall by slanderous words, charge another with this Crime, or any thing like unto it, hee may have this Action for his remedy. Star. 1. Jac. chap. 17. Croo. 13. 59. And therefore it is held; that this Action will lye for the words as they are mentioned, in the Cases hereafter following.

Witch.

Some of the Judges have from time to time been of opinion; that this Action will lye, for calling of a man or woman Witch; or saying, hee, [or shee] is a Witch, without the Addition of any other words to it: And some Judgements are said to be given accordingly. For which see, Croo. 2. 306. 150. 639. 531. 205. In Godb. pl. 435. But the main current of the Judges opinions and judgements are the other way, and the Law (as it seems) is now taken to be; that this Action will not lye for saying one is a Witch; without the addition of some other words, importing that hee hath bewitched some person, or his goods, &c. For which see, Finches Law 126. Croo. 2. 399. 150. 205. 236 531. 660. Croo. 1. 233. 205. 236. 340. 233. In Godb. Rep. 257. 341. 17. Jac. Hawks Case M. 8. Jac. B. R. Shirdens Case. Brownl. 2. part. 14. Bendloes Rep. 23. 127. Hellenas Case. Stiles Rep. 11. 47.

It is said, to be adjudged, to lye for the words in the Cases hereafter next following. That is to say, The Devil appeareth to thee every night in the likeness of a black man, [or a black horse] and thou conferrest with him, and hee giveth thee what thou askest, and therefore thou hast so much money. Marthals Case, by Hobb. pl. 137. 162.

But it is doubted whether it will lye for the words in the Case, next hereafter following, that is to say,

Thou art a Witch, and wert the death of such a mans childe, at whose birth thou wert Midwife. In Godb. Rep. 341. Bendloes Rep. 127.

Hagg.

And so whether it will lye for this; Thou art a hagg. in Hobb. Rep. 155.

And so whether it will lye for this; Thou art a Witch, and hast bewitched my wives milk. Croo. 2. 600.

Uncertainty.

And so whether it will lye for this; A. did bewitch my good man, Innuendo my husband. Stiles Rep. 106.

And so whether it will lye for this; Thou hast bewitched one. Stiles Rep. 106.

Sect. 2.

But there it is the opinion of two Judges, that it will lye for saying; Thou hast bewitched a man. Stiles Rep. 106.

Witch.

And for these words it is said it will lye; thou art a Witch, and didst bewitch my Mothers drink, and being asked after why shee did it, shee said: If I have called her Witch, wee will prove her a Witch, and answer what wee have done. Hughes Case, Croo. 1. part 100.

And for this, thou art a Witch, and hast bewitched J.S. to death. Croo.

Croo. 1. 103. Godb. 341. Croo. 1. 341. And for this, hee is a Witch and an Inchanter, and hath bewitched the children of one Strong. Hutton Rep. 13. yet see Bendloes 127. And for this, thou art a Witch, and thou hast bewitched children that they are wasted and destroyed. Stones Case, Brownl. 1. part 2. 7. Croo. 1. part 341. Huttons Rep. 13. And for this, He is a Witch, and a strong Witch, and hath bewitched me and my Aunt A. S. Ceelies Case. Croo. 1. 341. Stiles Rep. 106.

Witch and Inchanter.

And for this, Thou and thy VVile [Innuendo, the Plaintiffe and Agnes his Wife] are both VVitches. and have bewitched my Mare [Innuendo, the Mare predict. Thome.] whereas it should have been, predict. Richardi. Tho. Smith versus Cooker. Croo. 1. 368.

And for this thou art a Witch and a Sorcerer. Croo. 1. last publisht. 571. And for this, Shee hath bewitched J. S. by VVitchcraft and Sorcery. Croo. 1. part 189. Goldsb. 341.

Witch and Sorcerer.

And for this, Thou art a VVitch, for thou hast bewitched my Cow. Savils Case. Stiles Rep. 59. 65.

And for this, I. S. is a VVitch, and hath bewitched two of the servants of I. S. to death, and there held that the Plaintiffe need not to aver that any person is dead, or how she did bewitch. Croo. 2. 639.

Averment.

And for this, Thou dost work by Nigromancy, and dost work by the Devil. Yelvertons Rep. 150.

And for this, Long is a Murtherer, and hath bewitched my childe, and was the death of my childe. Mich. 23. Car. B. R. in Stiles Rep. 65.

And for this, Thou art a VVitch, and dealest with VVitchery, and didst procure Mother Rale to bewitch the Cattle of I. S. Hill. 20. Jac. 3. in March of Slanders, 1. part 15.

And it is said it will lye for this, Thou hast killed a man by VVitchcraft, and that this is certaine enough. Stiles Rep. 106.

Certainty.

But it is reported, and said to be held, that this Action will not lye for the words in the Cases hereafter following (that is to say) for saying of I. S. That he is a Sorcerer and Inchanter. Muttons Case. Croo. 13. 59. Brownl. 2. part 276. For (as it seemes) for saying of a man, Hee is a Conjuror; but if he saith, He is a Conjuror of the Devil, or, of any evil or wicked spirit, the words are more dangerous. Godb. Rep. 341. and yet some have held the contrary, and that all these words are Actionable, because they doe, as the Witch doth, deal with the Devil, the one by a grément, the other by prayer, and such like means. Some would have it for to lye for calling of one Hag, others doubt of it. Hobb. Rep. 155.

Sorcerer and Inchanter. Conjuror.

Hagge.

For for this, Thou art a Witch and Inchanter, and hast bewitched Strongs children. Brown. 1. part 2. 7.

Witch and Inchanter. Witchcraft.

For for this, He hath bewitched my VVcare that I can catch no Fish.

For for this, Thou art a VVitch, and hast bewitched my childe. Melton versus, Hern. Godb. 341. Stiles Rep. 11. 66. 59. Huttons Rep. 132.

For for this, Mary Yates is a Sorcerer and a Witch, and a White Witch, she can bewitch and unbewitch. Stiles Rep. 47.

Sorcerer and Witch.

For for this, Shee is a Witch, and I will take my oath of it. Turners Case, Stiles Rep. 47.

For for this, Thou art a Conjuring Knave. Bulstr. 1. part 138. For for this, Thou art a Witch, and a strong Witch. Croo. 1. 205. 236.

Conjuring Knave.

For for this, Thou art a Witch, and by thy means I have lost my Mare. Hawks Case, Croo. Rep. 2. 531.

For for this, Thou art a Witch, and I will make thee come and say. God save my Mare; I was forced to get my Mare charmed for thee. Croo. Rep. 1. 233.

Sec. 3.

For for this, Mr. Lowes is a Witch, and I will prove it, for I have seen him, and his imps, and evil spirits appear unto me in my chamber, and put me in tear of my life; and he said, Come, he will never bee at quiet till we have killed him, and he did bewitch a childe of mine. Lowes Case, Bulstr. 3. part 74.

But upon this Head, these things are also to be known,

1 That for these, and such like words before mentioned therein, that are not Actionable, that albeit the words in themselves are not Actionable, yet if any special damage shall come thereby to him of whom they are spoken, he may happily have this Action for them, Croo. 2. 102.

Averment.

2 That for all the words herein before mentioned to be Actionable in themselves, and for all such like words, this Action will lye, without Averment of any special losse sustained by the party of whom they are spoken, Croo. 1. 101. See March Rep. pl. 2. 93.

3 That such kind of slanderous words as these are, must bee under the general Rules before laid down, Malicious, false, certain, &c. For if they be true, or not malicious, too general, of a double intendment, or doubtful meaning, or not sufficiently positive, or altogether incertain in themselves, either as to the person of whom they are spoken, or in the thing spoken of that person, or under a Qualification by the precedent or subsequent words spoken at the same time, or import an intent only of doing an act, and no act done, they may not be Actionable.

CHAP. IX.

Of words of Slander about Rape, Sodomy, Buggery, and House-burning.]

Rape.

The Ravishment of a Woman is by the Law a very great Offence, and very penal, and therefore if any man shall charge another with this Offence, or any thing like unto it, the party slandered hereby shall have this Action for his Relief therein. Stat. 13 Eliz. chap. 6. 39 Eliz. chap. 9. and therefore it hath been held, That an Action will lye for the words in the Cases hereafter following (that is to say) for saying, Thou didst ravish I. S. and for this, He should have been hang'd for a Rape, and it cost him dear. M. 39, 40 Eliz. B. R. Redfernes Case. Croo. 1. part last published, 589. And for this, He is ravishing of I. S. Croo. 1. 101. And for this, Thou [Innuendo the Plaintiffe] hast ravished a Woman twice, and I will make thee to stand in a white sheet for it. In Cobb. Rep. 287.

Sodomy.

Sodomy in the eye of Law is a great Crime, and very penal; and therefore if any man shall slanderously charge another with this, or any thing like unto it, this may be actionable, 25 H. 8. cap. 6. 5 Eliz. cap. 17. Croo. 12. 37. and therefore this Action will lye for calling of one Sodomite, or for saying, He hath committed Sodomy. Croo. 10. 130. and 4. 15, 16.

Sodomite.

Buggery.

Buggeryer.

The like may be said of this offence of Buggery, and of words scandalous about it; and therefore it is held that this Action will lye for calling of one Buggeryer, or saying of one, That he hath committed Buggery. Croo. 10. 130. and 4. 15, 16.

House-burning

The burning of any dwelling House, or Barn full of Corn, or any Out-house adjoining to such dwelling House or Barn, is also by Law felony, and very penal to the Offender; and therefore if any man shall slanderously charge another with this, or any thing like unto it, this may be actionable; this Action is therefore said to lye for saying, Thou didst burn a dwel-

dwelling house, or thou didst burn a barn with corn: But it will not lye for saying, Thou didst burn a barn, or thou didst burn a barn with thine own hands. For may such words be made Actionable by enforcing it with an Innuendo in the Declaration, Innuendo a barn full of corn. Adjudged New. B. of entries. fol. 25. Co. 4. 14. 20. In Yelvertons Rep. 21. Bullstr. 1. part 112. Croo. 2. 184. Hobb. Rep. 196. 332. 350. And yet it hath been adjudged to lye for this, B. is a bad minded man, and none but hee did burn my fathers barn; and hee doth use to set fire of barns about Michaelmas, when they are full of corn. In Noys Rep. 155. And see in a Case where two of these Colliers were burnt in a barn, and some were executed for it; where one said of J. S. Thou didst bring faggots a mile and a half, to the burning of the Colliers. Huttons Rep. 122. But it is said it will not lye for this, thou hast burnt my barn, for which thou wilt be hanged. In Bullstr. 3. part. 267.

In an Action for these words, I am sure that A. B. did burn my Barn, Innuendo a Barn full of Corn, and I will have a bout with him for it; If my Lord chief Justice would have done mee right, I would have hanged him for it; in this Case the Judges did most incline, that the words were not Actionable. Croo. 1. part. last publiht 834.

It is said, it hath been adjudged to lye for this, hee hath harboured and received his Son into his house, having notice of him before that hee was a Seminary priest; for this is felony, see in Bullstr. 1. part 181.

About the receiving of a Priest.

And here this also is to be added to all the Cases before laid down in this chapter, as in the former chapters; That in Cases where one shall slanderously charge another with any Crime, made Felony by any Statute Law, or with any thing like unto it: As with the having of two wives, the Imbezeling or tazing of Records, the wilful putting out of a mans eyes, or cutting out of his tongue, the Levying of a fine, or acknowledgment of a Statute in another mans name, conveying away of the Kings Ordnance, or Armour, or the like, this Action may be maintainable for it.

And in all such Actions, the Rule before laid down in the Actions for Slanders about matter of Murder, do hold place here.

1. That if the words import any great slander, and be not in themselves Actionable; yet if any special damage happen to the party of whom they are spoken, by them; they may by this become Actionable.

2. That in Actions for such words as these, there will not need any Averment of special damage by them.

3. That if the thing said be true, or not maliciously said, or too general, of a double intendment, or of a doubtful meaning, or not sufficiently positive, or altogether incertain in themselves, either as to the person slandered, or the slander it self, or under a qualification by the precedent or subsequent words spoken at the same time, or import an intent only of doing an Act; and no Act done, they may not be Actionable.

CHAP. X.

Of words of Slander about matter of Theft.

As to Slanderous words that have an Import in them of any matter of Theft; we are to know, that Theft is the unlawful taking away of another mans goods from him against his will, and this is a great offence and very penal: For by the greater Felony, which is the stealing of any thing above Twelve Pence in value, the offender doth in many cases lose his

Theft, what it is. Sect. 1.

Petit Larceny.

life, and all his estate by it. And by the lesser Felony, which is the felonious taking of any thing under the value of twelve pence (which is called Petit Larceny) by this hee will forfeit all his goods; and become liable to such corporal punishment of whipping, and the like, as the Judges shall appoint. If therefore any one shall charge another falsely with any crime of this nature, hee may have his remedy by this Action. It is therefore said to be agreed, that this Action will lye for these words, and as they are set forth in the Cases hereafter following, viz. for calling of a man Sacrilegger, or Church-robber; or for saying, Thou hast committed Sacriledge, or, thou hast robbed the Church of Dale. Pasche. 8. Jac. B. R.

Sacriledge and Sacrilegger. Church-robber.

So it is said, it hath been held maintainable for these words, A. is robbing the Church of S. D. Thou hast robbed the Church of S. Croo. 1. 301. Dr. Sibthorps Case. But for saying, Thou hast robbed the Church, without more words, it seems no Action will lye, for the uncertainty of the words; what Church hee intended, a Visible; or Invisible Church. And yet to say of one, That hee hath robbed a Church, is conceived, may be actionable, and that it shall be intended to be spoken of a material Church. See in March. of Slanders, 1. part 48.

Uncertainty.

It is said to be adjudged to lye for this, Thou hast robbed the Church of A. and thou hast stoln the Lead from off the Church [Innuendo. the Church of A. M. 4. Jac. Benson and Morlyes Case. Croo. 2. 153. But that it will not lye for saying, Thou hast robbed the Church of Dale, for thou hast stoln away the Lead of it. Croo. 10. 130. 4. 15. Croo. 2. 153.

Certainty.

It is said, that this Action will lye for this, Hee hath robbed a Church, not saying what Church, as the Church of Dale, &c. and that an Innuendo may make it certain. Croo. 1. 301, Croo. 2. 154.

Piracy. Pirate.

This Action (it is said) will lye for calling of one Pirate. Or for saying of him, Hee hath committed Piracy. So for saying, Thou maintainest Pirates, who rob upon the Seas. So for this, Thou art a Maintainer of Pirates, and a procurer of piracies. Croo. 2. 619. Croo. 4. 14.

Other Theft. Theef. Robber. House-robber. Sheep-stealer.

It is held to be out of question, That this Action will lye for calling of one Theef, Robber, or House-Robber. So for saying of one, Hee hath committed a Robbery, or, hee hath committed a Burglary. Croo. 10. 130. 27. H. 8. 11. 14. Dyer. 112. 236. Croo. 1. 329. In Owens Rep. 33. 47. In Noys Rep. 10. 20. So for this, Thou art a Sheep-stealer. So for this, Thou art a Horse-stealer, In Bulstr. 3. part 303. 260. In Bendloes Rep. 154. So for saying, Thou art a Welch-Theef. Croo. 1. 329. So for this, A. hath stoln my Sheep. In Hurtons Rep. 8. So for this, A. hath stoln Sheep. So for this, A. hath stoln Sheep from B. C. 27. H. 8. 22. N. 26. H. 8. 9. pl. 11. So for this, Thou art a Roguish Knave and a Theef. Bulstr. 2. part 134. So for this, Thou didst steal the Horse of J. S. In Hobb. Rep. pl. 196. So for this, Thou art a cunning Theef. Bulstr. 1. part 146. 210. So for this, Hee is a Theef to you, and to mee, and hath stoln twenty pound from mee, and forty pound from you. Croo. 2. 676.

Horse-stealer.

So for this, Thou didst meet mee on the way, and askedst my purse, and I gave thee five shillings for fear. Bonds Case.

So for this, A. did set on mee, and took my purse from mee, not saying in the high way.

So for this, Thou didst set upon mee in the high way, and didst take away from mee my purse, and I will be sworn to it. Storiers Case. B. R.

So for this, Thou didst set upon mee, and tookest away my purse, with twenty marks in it, go with mee before a Justice, and I will charge thee with

with Felony. Lewis Case in the Chequer Chamber.

So for this, Thou didst violently upon the high way take away my purse from mee, and four shillings two pence in it, and didst threaten mee to cut mee off in the midst, but I was forced to run away to save my life. Lawrence Case. Croo. 1. 102. M. 8. Car. 1. B. R.

It is said, it will lye for this, Hee hath robbed J. S. And this albeit J. S. were never robbed. Mich. 9. Jac. B. R.

So for this, Hee is a Theef, and hath stolln my gold. Albeit hee do not say when hee did steal it. Croo. 2. 622.

So for this, Thou didst steal my Horse, and wast in Gaol for it. Hobb. Rep. 196.

So for this, Hee hath stolln a horse, and it will be proved by twenty witnesses. Hares Case.

And yet it is said, it will not lye for this, Thou didst take away my mony [or the mony of J. S.] Hobb. Rep. pl. 11. 106. 332. 350. Croo. 2. 184. Brownl. Rep. 1. 2. Coe. 4. 15. For for this, Thou hast stolln by the high way side. Davis Case. Pasche. 38. Eliz. Goldsb. 143. Bulltr. 1. part 112. For for this, Thou didst beat mee, and took away my purse from mee. 37. Eliz. Co. B. March. of Slanders. 1. part 47. For for this, Hee did assault mee, and take away my money. Bulltr. 1. part 112. For for this, Hee took away money from him with a strong hand. Mich. 15. Car. B. R. For for this, Thou didst take away my money with a strong hand. Bulltr. 1. part 112. March. Rep. pl. 91. And Innuendo Felony in the declaration will not alter the Case. Godb. Rep. 181. For for this, Thou didst take away my purse, and twenty shillings in it. Hobb. Rep. pl. 268. So for this, Thou didst set upon mee in the high way, and take my purse from mee, and twenty marks in it, and I will be sworn to it. Croo. 2. 315. Holland and Stoner. Bulltr. 1. 112. for there is no certain charge of Felony in it. Hobb. Rep. pl. 268. 382. See in March. Rep. pl. 91.

For for this, I have a matter against A. who hath stolln by the high way side. Croo. 1. part last publish. 459. See of this more upon the incertainty of the charge. Afterwards in this chap.

It is said, the Action will lye for this, Thou hast stolln my goods, and I will have thy neck. In Brownl. 2. part 230. 280. So for this, Thou art a Theef, for thou hast stolln my Cock. In Brownl. 1. part 1. Or, thou hast stolln my two Cocks [or my two Hens. [or my other goods. Trin. 5. Jac. B. R. Bensers Case.

So for this, You, huswife, are a Theef, and have stolln my purse; and it was said, that there was certainty enough in it. Stiles Rep. 150. Certainty.

So for this, J. S. did load a Ship of my Masters with Barley, and did steal and couzen seven quarters thereof in measure. Mich. 20. Jac. Co. B. Winch. 41. See Winch. 202.

So for this, Thou hast stolln Plate in Cambridge, and wee will charge thee with Felony for it. Wilb. and Gunning. 2. H. 7. 16.

So for this, Thou hast stolln a Sack, and a Curry-comb, and I will make thee produce it. And thou didst steal my Fathers Wood, and give it to a Whore. Brownl. Rep. 2. Hobb. Rep. 192. Skarlers Case.

So for this, Thou art a Theef, and hast broken my Chest. In Stiles Rep. 115. Wainwrights Case. Trin. 24. Car. B. R.

So for this, Thou art a Theef, for thou hast stolln the Town-beam [Innuendo the Town of W. per Serjeant Hutton. Brownl. 3.

So for this, Thou art a steal-gown, and the first Gown that thou didst wear thou stolest, and thou didst walk up and down in the stole Gown, and hadst no Gown till thou didst steal one. New Book of Entries. 23. D. Sect. 20.

So for this, A. hath stoln my Axe from my Wood-pan. Edwards Case, in Stiles Rep. 213.

Averment.

So for this, That he stole two or three pound of Tobacco out of his Masters shop, and yet there it is said, That it will not lye for this, Hee stole the Tobacco out of his Masters shop, without a special Averment that there was Tobacco there, and what it was. Wotherlies Case in Winchel. Rep. 6. 15.

So for this, Thou art a Thief, for thou hast cut off the Ear-mark of my sheep, and set on thine own. See in March of Slanders. 2 part 4.

So for this, Thou wouldst have stole a peice of cloath, or else thou wouldst have delivered it to my Wives daughter, thou art a thief, and an arrant thief, and I will prove it. In Goldsb. Rep. 85. So for this, A. is robbing of I. S. Croo. Rep. 1. 101.

So for this, A. is as very a Thief as any that robbeth by the High-way side. So for this, A. is a worse thief than any that robbeth by the high-way side. Croo. 1. last publisht. 224.

So for this, to say of one suspect, and prosecuted for stealing of a Horse, That he did steal him; for common fame of a man that he is a Thief, will not warrant any man to call him so, or to say, Hee is a thief. Mich. 13. Jac. Co. B. Cuddington against Wilkins. See Hobb. Rep. pl. 105. 112. 238. 381. So for this, There is a great nest of Theeves at Pinton, and Sir John Bridges is the maintainer of them, and hee is a Thief himself, Dyer 75.

Manner of the speaking.

So for this, I. S. was questioned for stealing of a gray Mare with a snip in her ear, and Hue and Cry went out after him, and hee durst not shew his face hereabouts. Stiles Rep. 159.

Incertaintry in the person slandered. Sect. 3.

So for this, I did meet J. S. and others, such a day in such a place, and they bid me deliver my Purse, and I being afraid, put my hand in my Pocket, and took out two shillings six pence, and gave it over my shoulder to one of them, I know not which, it will lye for J. S. but not for any of the rest. Yelvertons Rep. 158.

So for this, Take heed how you lodge J. S. for hee takes Purfes. By two Judges. Bulstr. 1. part 112. So for this, Thou art a Roguish knave and a thief, Bulstr. 134. So for this, Thou art a cunning thief. Bulstr. 2. part 146.

So it is said to lye for this, You doe not well that you doe not apprehend J. S. for a Felon, and seize his goods, for he hath stole a sheep from A. B. Croo. 2. 116. So for this, Hee would have robbed me, and did rob me of my Dagger. Bulstr. 2. part 227.

Cut-purse.

It is said it will lye for this, There is not a Purse cut within twenty miles but I. S. knowes of it, and hath a share in it. Balls Case.

So for this, Thou art a cunning Cut-purse Knave. Trevillians Case, B. R. But not for this, He is a Cut-purse; No for this, He is a cunning Knave, and acquainted with more Cut-purses than any man in Northamptonshire. Bulstr. 1. 147. Croo. 2. 536. Godb. Rep. 181.

Pick-pocket.

No for this, Thou hast cut my Purse, therefore I charge thee with Felony; but if he say, Thou hast cut my Purse feloniously, it may perhaps be otherwise. Croo. 1. part last publisht. 890.

It is said to lye for this, Thou hast taken out of my Pocket forty pound of my Mony, and I will cause thee to be indicted at the Sessions of the Peace, and to hold up thy hand at the Bar for it. But that it will not lye for this, He hath picked out of my pocket silver and gold. Croo. 1. part 238. Yelverton. 136. Dromants Case; or taken out of my pocket silver and gold, or picked my pocket, and taken away ten shillings. Stiles Rep.

Rep. 127. Croo. 2. 498. And yet it is said it will lye for this, Thou hast Picked my Pocket, Quere thereof, and see Croo. 1. 238. In Godb. 287. pl. 413.

It is said it will not lye for this, Hee is a Pilfering fellow, and hath Pilfered away my corn and goods from my wife and children. Huttons Pilfering fellow. Rep. 14. Owens Rep. 56. Carters Case. M. 37. 38. Eliz. B. R. Croo. 1. low. last published 424. **For** for this, Hee is a Prigging Pilfering fellow. **For** A Prigging fellow. **For** for this, Thou art suspected to bee a common Pilferer.

For for this, Thou art a Filching fellow, and hast Filched away Ten Pounds from mee. Hobb. Rep. pl. 323. Croo. 4. 15. Filcher, and Filching fellow.

For for this, Thou art a common Filcher. Croo. 1. last published 554.

This Action will lye for these strange words, where the use and meaning of them is known; Thou art a healer of Felonies, and hast shewed such a favour to a Horse stealer, that thereby both the Horse and Thief were conveyed away, and it is in my Power to hang thee. Yelvertons Rep. 153. For strange words used in some Countries. Healer of Felons. Hobb. Rep. 191. **So** for this, Thou art a healer of Felons. Hobb. Rep.

191. **So** for this, spoken before them that know the use of it; Thou art a Sheep-Theef. **So** for this, Thou art an Out-putter. **So** for this, Croo. 1. last published 250. Bullstr. 2. part 145. Brownl. 1. part 13. Hobb. Rep. 350. Sheep-theef. Out-putter.

And this also (as it seems) without any Averment in the Declaration, that the sense of the words is so and so; for this may be proved at the Trial by witnesses. Mores Case. 6. Jac. R. B. Hughes Abridgement page 37. part 47. Strained a mare. And yet some hold this Averment necessary. Brownl. 1. part 13. Croo. 1. 96. Benloes Rep. 134. Stiles Rep. 296. March. Rep. 118. Averment.

So it is said it will lye for this for the Father, Barber and his wife bee false theeves, men cannot have their cattle go upon the Common, but they will kill them and eat them. Barbers Case.

So this Action (it is said) will lye for this, A. hath halfe my goods, and shall be hanged for it. 8. Jac. B. R. Long & Kings Case. Sed Quere of this. **For** it is said, it will not lye for this; I had Fourty Pounds worth of Plate, and A. hath it, and will bee hanged for it. Trin. 12. Jac. Kings Case.

So it will lye for this, Hee is not fit to be a Constable, for hee and his company, the last time hee was Constable, stole five of my Swine, and eat them: But it will lye only for him that is the Constable, and not for any others. Croo. 1. last published 861. Incertainty in the person slandered.

So it is said, it will lye against a husband and wife, for these words spoken by the wife, Mr. Plunker did Seal my Place out of my chamber. And yet in propriety of speech, it was not hers but her husbands Place. Croo. 1. 38. and 2. 60. By improper words. Sect. 4.

So for this said by a wife, Thou art a cheevish Quean, for thou hast stolen my Faggots, Innuendo five Faggots of the defendants husbands. Croo. 1. 88. and 2. 60. **So** for this spoken by the wife of another, Thou hast stolen my two Cocks. Mich. 9. Jac. B. R. See Croo. 1. part last published 279. Charnels Case. B. R.

It is said that this Action will lye for this said to a Father; I will take my oath that your Son stole my Hens? **So** it be with this Averment in the Declaration that the Plaintiff is his Son, and that he hath no other son, or that the words were intended of him that brings the Action by some other words spoken at the same time. Mich. 15. Car. B. R. Stiles Rep. 46. **So** for saying of J. S. That hee was one of those that Robbed J. S. Goldsb. 85. Certainty and Incertainty of the person slandered. Averment.

So for saying to the Son; Thy Father is a Thief, and hath stolen more goods then I am worth; this will lye for the Father, and that without Averment of what hee is worth that spake the words. Bullstr. 2. part 141. Painters Case. Mich. 11. Jac. B. R. 2

So it is said, it will lye for a Boy that is present for these words said of him, This Boy is a Theef. Brownl. 1. part 2.

So if two be talking together of John Symes, and William Symes, and one of them saith, These Symes are Theeves, otherwise it is if he say, The Symes are Theeves. In Haghes Rep. 39.

Averment.

This Action (it is said) will lye for the Father, where these words are said to the Son, Thy Father hath stoln such goods. So it will lye for a Husband, where these words are said to the Wife, Thy Husband hath stoln such goods; and that without any Averment at all. But in Cases where it is said to a Father of a Son in general, no Action will lye for a Son, without some special Averment, that he hath no other son, or that the son that brings the Action was intended in the words. Croo. 1. 127. and 2. 443.

Averment.

It is said, it will lye for this, I have a Son in A. who had his Chest picked, and a hundred pound taken out of it in the house of one B. and I think I have found the Theef, who it is; it is one that dwelleth in the next house, called Robert Kingston; If there be such a man there, he may perhaps have this Action, but then he must aver that he doth dwell in the next house. Pasche. 7. Jac. B. R.

Averment.

So it is said, it will lye for these words, Pritchards man hath robbed mee. But then the Plaintiff must in his Action insert this Averment, that he was Pritchards man, and that he had no man but him, or that the conference was about him, &c.

Incertainty of the person.

But it will not lye for this, said of any one without any precedent Communication of any person incertain, One that is mine Adversary is a Theef. For for this, One that is neer about J. S. is a theef. For the incertainty of the person slandered. Croo. 4. 17. Hobb. Rep. 375. pl. 35. For for this, One of the Servants of J. S. is a theef, if he have more servants than one. Hobb. Rep. 351. 371. Croo. 4. 17. Croo. 1. 127. Brownl. 1. part 1. 7. 9. 10. 13.

Certainity and incertainty in the matter of the Slander.
Innuendo.
Sect. 9.

It will not lye for these words; You have committed Burglary in breaking of his house [Innuendo the house of one Bennet] and stealing his goods; For this may be but trespassse. And it is not said, whose house he brake, but by the Innuendo, which is not sufficient to make it certain. Croo. 1. part last publisht. 889.

For for this, Hee is as arrant a Theef as any in England, and broke up the chest of J. S. and took away forty pound out of it. Hurtons Rep. 72. Yelverton 90. Croo. 2. 687. Foster and Browning.

For for this, Thou art drunk, and I never held up my hand at the Bar, as thou hast done. For for this, Thou wast arraigned for Felony &c.

For for this, Thou didst hold up thy hand for Felony. For for this, Thou wast in the Gaol at G. for robbing, &c. For for this, Thou didst take away my mony. For for this, Thou didst beat mee, and take away my mony. For for this, Thou didst take away my mony with a strong hand. Bulstr. 1. part 112. March. Rep. pl. 91. For for this, Thou didst take away my purse, and twenty shillings in it. Hobb. Rep. Lynes Case. 268. For for this, I have an Action against J. S. who hath stoln by the high way side. Benizens Case. 37. Eliz. B. R. Quere of this. Yet see Hobb. Rep. pl. 382. a Case somewhat like to it. For for this, Thou art a cur-purse; for every Glober is, Godb. Rep. 181. Trin. 17. Jac. B. R. Croo. 2. 536. Bulstr. 1. part 147. Pophams Rep. 180. Buls Case.

Cur-purse.

Hee will bee hanged.

For for this, A. was robbed of forty pound, and a hundred marks worth of Plate, and B. and C. had it, and for thar, by God, they will bee hanged for it. For it may be they did not steal it, but came lawfully by it; And the latter words, they will be hanged for it, are not actionable. Croo. 2. 302. 331. Bulstr. 1. part 147. Jenk. Cent. 8. Case 93. Bulstr. 1. part 147.

For *for* this, A. hath received again his peeces of cloth; and beareth with the Theef; Innuendo quendam malefactorem ignotum. Noys Rep. 57.

For *for* this, A. hath broken my shop, and taken away my goods. 29. Eliz. George against Parker. In Noys Rep. 57.

For *for* this, Thou art as bad as thy Wife, when she stole my Cushion, without some Averment, that there was such a Felony committed. Croo. 2. 331. Goldsb. Rep. 242.

For *for* this, J. S. deserves to be hanged. *For* *for* this, J. S. deserves hanging. *For* *for* this, It is in my power to hang thee. M. 4. Jac. B.R. Pasche. 38. Eliz. Hollands Case. 10. Jac. B. R. Pridhams Case. Trin. 16. Car. 1. B. R. Hee deserves to be hanged. I can hang thee.

For *for* this, Thy brother was whipt about Taunton Crofs for stealing of sheep, or, burned in the hand, or shoulder. Croo. 1. 106. Mich. 8. Car. 1. B. R. Hills Case. And yet these words import something done, by which the party of whom they are spoken had deserved hanging, &c.

For *for* this, He hath stoln a Mare, or, J. S. is forsworn. Pasche. 17 Jac. B. R. Burhams Case. And albeit he averr that J. S. did never swear any such thing, yet it will not lye. Croo. 2. 530. Incertainty.

For *for* this, Thou hast stoln, without more words; And yet if hee say, Thou hast stoln, for which thou wilt be hanged; these words are dangerous. Bullstr. 3. 266.

For *for* this, Thou art a breaker of houses. Mich. 9. Jac. Slaughters Case. Breaker of Houses.

For *for* this, Thou didst steal my Peerce [Innuendo, a Gun] and I do charge thee with Felony; *for* the word is uncertain, and the Innuendo cannot ascertain it. Bendloes Rep. 126. Wheeler against Appleton. Innuendo.

For *for* this, Thou usest mee now, as thy Wife did when she stole my Cushions. Goldsb. Rep. 242. Croo. 2. 331. Quere if it lye not *for* the Wife upon these words, When shee stole my Cushions.

For *for* this, Thou hast stoln my Mare, or consentedst to the stealing of her. In the Disjunctive. Croo. 1. last publishr. 780.

For *for* this, Thou didst bear away my goods. Hobb. Rep. 236. *For* *for* this, Hee bore away mony. Hobb. Rep. 268. *For* *for* this, Thou didst take my mony from mee. *For* *for* this, Thou hast theevishly taken my mony out of my purse. *For* *for* this, Thou hast theevishly taken such goods. Croo. 2. 82. Yelvertons Rep. 82. *For* *for* this, J. S. was robbed of twenty pound. and A. had it, and will be hanged for it, by two Judges. Pasche. 9. Jac. Foord. versus King.

For *for* this, He is a Rogue, or a Theef, or some such like thing; *for* this is altogether uncertain.

It is said, that this Action will not lye *for* this, said of a Jaylor, He hath let forth prisoners out of the Gaol, and had his part and shares with them; and by that means hee came to his goods. He had not a sheet on his bed before he let them out of the Goal, to steal them. Croo. 1. last publishr. 783.

This Action is said to lye also *for* the words in the following Cases, viz. *for* saying J. S. and W. S. knowing that A. did carry mony, did lye in wait to rob him, and set upon him, but he raising the Country, they did fly away, and J. S. lost his horse; and they both were driven to ride away with one horse. Croo. 1. 99. In Huttons Rep. 58. Attempt or endeavour of Theft. Sect. 6.

For *for* this, He set upon mee to rob mee in the high way, and had done it, had not my horse the better escaped with mee. In Bullstr. 2. part 206.

For *for* this, Hee lay in wait to assault J. S. with an intent to rob him.

him. Mich. 4. Jac. B. R. Lanes Rep. 98. Finches Law. 186. So for this, Hee lay in the High-way to rob me. In Lanes Rep. 98. Yelvertons Rep. 90.

So for this, Thou layest in wait to rob me. Croo. 1. part last published, 888. Palch. 5. Jac. B. R. 191. of Croo. 1. part last published.

So for this, A. is a false Knave, and was at my house the Sessions day at night, and would have robbed me, and did break my doors, and put me in jeopardy of my life. In Bulstr. 3. 200. Dyer 16.

And yet it is said it will not lye for this, Thou hast stoln by the High-way side. Goldsb. Rep. 143.

So it will lye (as it is said) for this, Thou hast hired one to rob me. Hill. 13. Jac. B. R. Bulstr. 3. 167. So for this, Thou hast been a setter of Theeves to rob me; and yet the contrary is affirmed.

And it is said by some that this Action will not lye for this, He would have robbed me; nor for this, Thou hast hired one to rob me; nor for this, Thou art a setter of Theeves to rob me; nor for this, Thou keepst men to rob me; nor for this, Thou keepst men with intent to rob me; nor for this, Thou keepst men which doe rob me, or which have robbed me. Hill 13. Jac. B. R. But see the first Section of this Chapter, how the Law is in these things.

So for this, That nine persons did set upon me to rob me, and I. S. was one of them. Croo. 1. 99. Croo. 4. 16. Eatons Case.

Innuendo. An Action was brought for this, Bring me to the Constables house, for I am robbed this night, and bring me to the house of A. Bond to Arrest him, for old Bond doth set his Sons to rob me. Innuendo C. and D.] from time to time. In this Case it was adjudged that old Bond can have no Action for these words, and that an Innuendo cannot ascertain it. Croo. 1. last published, 618.

Inclination or purpose only, no Act done.

It is said that this Action will lye for these words, A. doth, or will prepare to rob me. Mich. 14. Jac. Syddham against May. But it is said that it will not lye for this, Thou wouldst have taken my Purse from me on the High-way. Godb. Rep. 202. Nor for this, He had a mind to rob me, Bulstr. 2. part 206.

Adjective words.

Nor will it lye for such words as these, He is a theevish fellow, &c. most of this, Chap. 7. Sect. 3. 02. Thou art a Theevish Knave; Or, Hee is a theevish Rogue, &c. He is a Roguish Knave. For these Adjective words import only an inclination to doe something, but nothing done. Nor will it lye for this, Thou art a theevish Whore. Croo. 4. 16, 19. Bulstr. 1. part 134. 138. Croo. 2. 514. And yet it will lye for this, Thou art a dunning thief. Bulstr. 2. 146.

About stealing of Apples, Sect. 7.

It is said this Action will lye for this, You are a Thief, for you have stoln a bushel of my Apples on the ground. Bulstr. 1. part 163. So, Thou art a Thief, for thou hast stoln a bushel of my Apples out of my loft, or, [out of my Cock-loft. So for this, Thou hast stoln the Apples out of my loft. Hobb. p. 258.

But this Action will not lye for these words, Thou art a Thief, for thou hast stoln my Apples out of my Orchard. Nor for this, Thou art a thief, and that will be proved, by stealing my Apples in my Orchard. Bulstr. 1. part 163. Mich. 43. 44. Eliz. Cord. Dobbins and Frankins. Croo. 4. 19. yet see the Cases following for this.

Nor for this, Thou hast stoln my Apples out of my Orchard. Bulstr. 1. part 163. Nor for this, Thou art a thief, for thou hast robbed my Orchard, or, for thou hast stoln my Apples out of my Orchard. Huttons Rep. 65.

For this (as some judgments are) Thou art a Theef, and thou hast Stolen my Apples out of my Orchard, or from my Trees in my Orchard, Hobb. Rep. pl. 98. 106. 404. **For** this, Hee is a Theef, and it will be proved by Stealing of my Apples out of my Orchard. Co. 4. 19. Hobb. Rep. 97. 406. 381. See afterwards.

But other judgments are; that these words are Actionable where the words are coupled together by the word And, after Theef. See them after, differing opinions about this, and Bulstr. 2. part 142. Hobb. Rep. 106. Co. 4. 17.

But it is said it will not lye for this, Thou hast Stolen Apples out of my Orchard, and art a Theef, for this is like the Case. Co. 4. 15. Thou didst kill thy wife, and art a Traytor.

For this, Thou hast robbed my Orchard of my Apples; and wilt bee hanged for this, Bulstr. 3. part 267.

It is said by some that this Action will lye for these words, Thou art a Theef, and hast Stolen my Trees; **Or** [And thou hast Stolen my Trees.] **Or** [And thou hast Stolen Mr. Georges Trees.] **Or** [And thou hast Stolen my Apple Trees.] Brownl. 2. Cowl and Gilberts Case. Co. B. Hill. 3. Jac. B. R. Minors Case. **Or** [And thou hast Stolen the Apple Trees out of my Orchard] Croo. 2. 114. 7. Jac. B. R. Hobb. Rep. 77. Brownl. 2. Brown and Gilberts Case. But there are other judgments, that it will not lye for these words. Goldsb. and Brownl. 2. Hobb. Rep. 98. 404. Godb. 335. Bendloes. 137.

About Stealing of Trees, Wood, and Timber.

It is agreed by all that it will not lye for these words, Thou art a Theef, for thou hast Stolen my Trees, or Mr. Georges Trees, See. Croo. 2. 114. Hobb. Rep. pl. 19. 97. 106. 381. 406. 473.

Differing opinions and judgements about this.

And for the difference between [And] and [For] and the judgments that are contrary one to another about this. See Hobb. pl. 98. 191. 404. 106. 476. Godb. pl. 335. Bendloes. 137. Co. B. Hill. 3. 19. Hobb. Rep. 406. 381. Winch. Rep. 10. 113. Marsh. 111. 280. Bulstr. 1. 143. Croo. 2. 114. 39. 114. Yelverton 10. 34. Croo. 231. Noys Rep. 135. Hobb. Rep. 77. Brownl. 2. Godb. 335.

This Action will lye for this, Thou hast Stolen two armfulls of my wood, Bulstr. 2. part 82. and 1. 163.

For this, Thou art a Theef, and hast feloniously taken my wood, Pasche. 38. Eliz. B. R.

So for this, Thou hast Feloniously Stolen my wood. Croo. 1. part 111. published 471.

So for this, Thou hast Stolen my wood. Croo. 2. part 166. 138. Hobb. Rep. pl. 258. Loes Case. Bulstr. 1. part. 81. 2. part 81. Stiles Rep. 23.

So for this, Thou hast Stolen my wood, and I shall charge thee with Felony, Pasche. 38. Eliz. Co. B. Stiles 25.

So for this, Thou hast Stolen my wood out of my Baxton. Popham. Rep. 129. Brownl. Rep. 2. Co. 4. 19. Marsh. Rep. pl. 248.

So for this, Hee hath Stolen a tree formerly cut down, which is Felony, and I will cause him to bee indited for it. Croo. 1. 413.

So for this, Hee is a Theef, and Stole my timber. Huttons Rep. 38. And yet some will not agree to this, but I know not the reasons of their dissent.

So for this, Thou hast Stolen as much wood and timber out of my Landlords ground as is worth Twenty Pound. Yelvertons Rep. 152.

And yet it is doubted whether it will lye for this, A did Steal my wood, and I will send him to Bridewel, because of the last words. Stiles Rep. 25.

But it is said the Action will not lye for this; Thou hast Stolen my Trees [or my Tree] or [a Tree] Stiles Rep. 9. Hobb. Rep. pl. 77. Brownl. 2. 163.

And yet some oppose this, Bulstr. 3. 267. Croo. 2. 136. Bulstr. 2. 81. *Howbeit it seems to be clear, that no Action will lye for these words.*

For will it lye for this, Thou hast Stolen my Wood growing in my Coppice. For for this, Thou hast Stolen an Acre of my Wood. For for this, Hee came in my Wood, and cut down ten load, and Stole it away.

It is said to be Actionable to say of one, Hee hath Stolen a load of hop-poles, Croo. 1. last publisht. 225.

About Corn.

This Action will lye also for this, Thou art a Thief, for thou hast Stolen my sheaf of corn. Bulstr. Rep. 1. part 163.

Seft. 8.

So for this, Thou art a Thief, for thou hast Stolen my corn out of my barn. Stiles Rep. 135.

So for this, Thou hast Stolen my corn, and made mee no satisfaction Huttons Rep. 64. Winches, Rep. 6.

So for this, Thou art a Thief, and hast Stolen my corn. Croo. 2. 39. 424. Winch. 6. 10. Bulstr. 1. part. 81. Stiles Rep. 24. 73. Yet see Huttons Rep. 38. Hobb. Rep. 97. 406. 381. Croo. 4. 19. And yet in some of these also there is some Question. Hobb. Rep. 38.

So it will lye for this, Thou hast Stolen the corn, or [my corn] out of my barn. Hobb. pl. 258. Popham 129. Brownl. Rep. 2. So for this, Thou hast Stolen my corn and carried it to Market, Croo. 2. 422.

So for this, Thou art a false knave, and didst Seale my corn. Harris Case. Quere of this.

So for this, Thou art a Corn Stealer. Croo. 1. part last publisht 363. 39. Eliz. Cookes Case B. R.

So for this, J. S. hath Stolen so many loads, or [so many bushels] of my corn. Owens Rep. 57.

But it is doubted whether it will lye for this, Thou hast Stolen as much corn out of my fields as is worth, Nine or Ten Shillings. Croo. 2. 457.

Some question also is made of this, whether it will lye for saying, Hee hath Stolen my corn, or Stolen away my corn. Triph. 37. Eliz.

It is said, that it will not lye for this, Thou art a Thief, and hast Stolen my corn in the field. Winch. Rep. 6. Stiles Rep. 66. Croo. 2. 104. For for this, Thou art a Thief, and Stolest the corn out of my field. Winch. Rep. 6. Hobb. Rep. pl. 97. 106. 406. 473. And yet some judgements and resolutions seem to be against these Cases. For will it lye for this, Thou art a Thief, for thou hast Stolen half an Acre of my corn, nor will an Innuendo say severen, alter the Case, and make the words Actionable, Croo. 1. part last publisht 428. Owens Rep. 57. Hobb. pl. 97. 106. 406. 473.

Innuendo.

About Furzes.

It is said this Action will lye for this, Thou hast Stolen my Furzes out of my Barren. Hobb. Rep. 258. So for this, Thou art a Thief, and hast Stolen my Furze. Popham. 152.

But it will not lye for this, Thou art a Thief, and hast Stolen Ten Cart load of my Furzes; unlesse hee say out of my Park, for otherwise it shall be intended Furzes growing, Huttons Rep. 113. 13. Hobb. Rep. pl. 97. 165. 406. 476.

About Fatches.

It is said, it will lye for this, Thou art a Thief and hast Stolen a bundle of Fatches. Huttons Rep. 65.

About Hay & Grass.

It is said, that it will lye for this, Thou hast Stolen Hay from Mr. Bells Racks. Popham. 129. Yet see Winch. 6.

About Hops.

So for this, Hee is a Thief, and hast Stolen my Grass. Stiles Rep. 232.

It is said it will lye for this, Hee is a Thief, and hast Stolen my Hops: But this is denied by some Judges to be Law. Huttons Rep. 38. But it is said that it will not lye for this, Thou art a Thief, for thou hast robbed my Hop-ground. Croo. 4. 17. For for this, Thou art a Thief, and

it

it will be proved by the robbing of my Hop-ground, Co. 4. 17. 19.

It is said it will lye for this, He is a Thief, and hath stoln my Turnips. About Turnips.
Stiles Rep. 231.

It will not lye for this, Thou art a theevish Rogue, and hast stoln About barres of
Iron out of
Windows.
barres of Iron out of other mens windows; and yet if he shall say, Thou didst steal barres of Iron out of such a mans house, these words may bee more questionable.

Now will this Action lye for this, He hath stoln forty pound of Lead About Lead
from a house.
from the house of I. S. [or of the house of I. S.] if the words were out of the house of I. S. it may be this may alter the Case. So to say, He hath stoln ten pound of Lead, it seems this is actionable. Brownl. 2 part 84.

It is said it will not lye for saying, He hath stoln the tile off my house. About the tile
off a house.
So likewise it is said it will not lye for saying, He hath stoln my Tiles, sed quere of this last Case, yet see Stiles Rep. 231.

Now out of all these Cases, about slanderous words, for stealing of Sec. 9.
Corn, Apples, Wood, Trees, Tile, Lead, and the like; some of which things as the Tile, Timber, barres of Windows and the like, in a house, the Law doth look upon as parcel of the house. And others, as Trees, Corn, Grass, Turnips, Fatches, and the like, growing upon the ground, Apples, Hops, and the like fruit of Trees, the Law doth look upon as incident to, and parcel of the thing wherein they are, and whereon they grow, until they be severed, and till then no Felony can be committed by the taking of any such thing away; and therefore the Report of the doing of such a thing is not so dangerous; but in many of the Cases it cannot but bee observed, there is (at least seemingly) much contradiction, the summe of all being put together, seems to be thus much. That it is agreed on all sides, that if the charge in the words be of such a Theft, as if true, may bring a man in peril of his life, or member of his body, as where it doth charge him with the stealing of any of these things severed from that to which it is annexed, the words will be actionable. Felony.

So likewise where the charge is thus, Thou art a Thief [For] Or, [And] thou hast stoln Corn out of my Barn, or the like, that for these, and such like words as these, the words will be actionable.

So likewise where the charge is thus, Thou art a Thief, for thou hast stoln my Apples out of my Orchard, or stoln my Trees off my ground, or the like, the words will not be actionable; for a man cannot be in danger of life, or member, by the taking away of these things, for it is no Felony to cut and take away standing Corn out of the field, Apples from the Trees in an Orchard, nor to cut and take away standing Trees, Wood, Furzes, and the like; or to take away the barres or Irons of Windows, Tiles from off the house, and the like, and therefore the charge of taking them away is no charge of Felony, or other great Crime.

But where the words of the Slander are thus, Thou art a Thief, and hast stoln my Apples out of my Orchard, or the like, upon this Case the Judges have been divided in their opinions, some of them maintaining that the words subsequent to the actionable words may bee qualified by the word [And] as well as by the the word [For] others maintaining that the word [For] only, will enure, and work to explaine and qualifie; and that when the words are brought in by [And] they are, and shall be cumulative, and an additional slander; as, Thou art a Thief, and hast stoln my Apples out of my Orchard, or the like, that in such Cases the Action shall lye for the word thief alone, and not be taken away by the subsequent words, as in case where the words be, Thou art a Thief, for thou hast stoln my Apples out of my Orchard. But that it shall be alike in both Cases. Words of qualification.

Some of the Judges also have put a difference between words of qualification uttered at the same time with other words, and words of qualification, delivered at another time; as where one shall say, I. S. is a Thief, and a slander by say to him, Take heed what you say, and then he say, Is not he a Thief that hath stoln my Apples out of my Orchard? some think in this Case that the words doe not qualifie, others think that they have as much force herein as if they had been spoken together at the same time. It becometh men therefore in these Cases, that have need to know the Law, to take good advice herein.

About the receipt, keeping, and concealment of Felons, and goods stoln.

Charge of a man, as an accessory to a Felony. Sect. 10.

Harbour or keep Traitors.

It hath been agreed that this Action will lye for these words, Thou maintainest thieves to steal my goods, Croo. 2. 629. So for this, Thou maintainest Pirates to rob upon the Seas. See Croo. 2. 629. So it is said to be adjudged to lye for this, Hee is a maintainer of Felons, albeit hee doth not say, that he knew them to be Felons, or, that he was a Justice of Peace, Sir Henry Leas Case, cited in Croo. 2. 268.

Some Reports have been, of judgements in Cases for these, and such like words as these, Thou receivest thieves, thou keepst thieves, thou keepst thieves about thee, thou keepst thieves in thy house, thou maintainest thieves in thy house. Let me say it with reverence, I cannot receive them as Law, nor see reason for them: for such kinds of speeches have not an import of any foul aspersion, they are ambiguous, why and how a man doth receive and keep such men about him, he may by occasion of business, relation, or other obligation, have cause to keep such men about him, possibly he may not know them to be such; or if he doe, it is not against any Law to receive thieves, or stoln goods, unless it bee so as to countenance or cover the offence, or keep the offender from punishment; nor is any man bound by the Law to discover any such offender (except he be a Traitor) but at his pleasure, for a man may doubtlesse, in many Cases, knowingly receive a thief, or the goods stoln by a thief, and justify it by Law; and therefore in 42 Eliz. in the Exchequer Chamber, a Judgement upon a Writ of Error was reversed, in the Case of Ball and Bridges; and it was therein agreed by all the Justices and Barons, That this Action shall not lye for these words, He is a maintainer of thieves, and keepeth none but thieves in his house, and I will prove it, &c. for one may have and maintaine thieves in his house, and not know them to bee such, and this is no offence. But there the Judges did seeme to agree all of them in this, that if the words be thus, That he did maintaine, and keep such in his house, knowing them to be such, that this would be Actionable. Croo. 1. last publisht. 746. 888. and it is reported by Goldsb. 48. That in Easter Term, 29 Eliz. Co. B.

It was there agreed by the Judges, that this Action was maintainable for these words, Thou dost maintaine traytors, or, thou dost maintaine thieves, see chap. 6. sect. 1. 2. But that no Action will lye for saying, Thou dost keep thieves. And that it hath been agreed not to lye for this, He is a receiver of thieves, Mich. 40. 41 Eliz. Co. B. Nor for this, He kept men that did rob upon the High-way. Hobb. Rep. Nor for this, Thou keepst thieves, without saying, or knowing them to be such. Goldsb. pl. 7. Nor for this, Hee hath thieves in his house. Croo. 2. 331. Nor for this, Thou keepst none but thieves [or, Cut-purses] in thy house, and hast their goods, Mich. 17. Jac. B. R. Nor for this, Thou keepst men to rob on the High-way. Nor for this, Thou keepst men that rob me, for all this may be unawares to him. Croo. 1. last publisht. 188.

It

It is said, it will not lye for this, of a man that had lost cloth stoln by unknown persons. A. hath received again his peeces of cloth, and beareth with the theet [Innuendo quendam malefactorem ignotum. Hall versus Hemfry. Trin. 38. Eliz. Noys Rep. 57. *For* for this, Hee hath three parcels of his cloth again of the theet that did steal it from him, and if I receive any hurt henceforth, I will charge him with it. Goldsb. Rep. 119.

For for this, A. keepeth men to rob mee; albeit hee hath been robbed by his men. But if hee say, Hee keepeth men to that intent to rob mee, and I was robbed by them; these words would be dangerous. Sir Harbert Croft against Brown. Pasche. 14. Jac. Bullstr. 3. part 167.

For for this, A. and his servants went about to rob mee, and hee did maintain them. But if hee say, that hee kept them to that intent, and that any thing was done, the words would be dangerous. Sir John Harpers Case. Bullstr. 3. 167.

This Action will lye for this, Thou hast hoistred Theeves, and stoln goods, and the theeves and goods were found in your house, and the theeves were had before such Justices, and committed by them to prison, and were hanged; and if the Justice had not been your friend, it had been hard with you. Bullstr. 2. part 109.

So for these words, spoken by a servant, whose Master had lost goods, thou art a maintainer of theeves to steal my Masters goods. Croo. 2. 639.

It will not lye for a Son for these words, A. hath stoln a horse, and his Son is consenting to it. Trin. 14. Jac. Lewknors Case.

For for this, I was robbed, and A. received part of the goods stoln, and I could hang him for it. Pasche. 7. Jac. Newlins Case.

For for this, Thou art a favourer of theeves. Dyer. 75.

For for this, Thou didst consent to the stealing of my Mare. Croo. 1. last publisht. 780.

For for this, Thou art a companion of theeves. Croo. 1. last publisht. 554.

For for this, Thou didst, and dost receive thief-stoln goods, witnes a Feather-bed tick in thy house, and the cloth which thy mans Sute was made of, and thou knewest they were stoln. Stiles Rep. 91.

For for this, Thou art an arrant Knave, thou hast bought stoln Swine; and a stoln Cow, knowing them to be stoln. Yelverton. Rep. 5.

For for this, You have taken stoln goods, knowing them to be stoln. Yelverton. 5.

But it is thought it may lye for this, A. stole a Mare, and thou B. knowing of the same, conveyedst her into the Fens to my Brother B. his house. And it may lye for A. and B. both. Goldsb. Rep. 132.

And yet it is said, it will not lye for this, Thy Boy [Innuendo Ambrose Latham, the Plaintiffs wifes Son] hath cut my purse, and thou hast received it, knowing it, and hast the Rings and Money that were therein in thy hand; therefore I charge thee with Felony. Croo. 1. last publisht. 890.

For will it lye for sayings, Thou art a Knave, and hast received stoln goods, and thou knewest they were stoln. For all this, though it be true, is not Felony, unless it be a Receipt to maintain the felon, and a man may in divers cases receive such goods lawfully. Croo. 1. part last publisht. 888.

So for this, I was robbed, and you were privy thereunto, and had part of the money. So it is said, it will lye for this, Thou hast been a setter of Theeves to rob mee. Hill. 3. Jac. B. R.

So where there is talk between two of A. and B. and one of them that are talking together, say, A. hath stoln away such goods, and B. was pri-

Sec. 11:

vy and consenting thereunto; in this case A. and B. both are slandered, and may have either of them this Action. Mor and his Wife against Butler. Mich. 7. Car. 1. B. R. Croo. 1. 171. So it is said, this Action will lye for this, I was robbed, and A. B. was privy to it, and had part of the mony. Godb. Rep. 138. pl. 32. 38. Eliz. Redfords Case.

So it is said, it will lye for this, Thou hast housfred [or received] goods that were stoln, knowing them to be stoln. But it seems these words are not actionable, except it be added, Ex scientia; And that the Action will not lye for saying of a man, Hee received stoln goods, for hee may justifie that in some cases. And if the Receipt be such as is not felony, the Defendant is to set it forth for the clearing of himself. Mich. 17. Car. 1. B. R. Haws Case. Croo. 2. 321. Bullstr. 3. 167. Goldsb. pl. 7. But it will not lye for this, A. hath received three peeces of his cloth again of the theef, and beareth with the theef; and if I have any hurt hereafter, I will charge him with it. Croo. 1. part last publishr. 487.

Concealment
of felons and
goods stoln.

So for this, Thou art a concealer of Felons, and hast shewed such favour to a horse-stealer, that hee and the horse is conveyed away, and it is in my power to hang thee. Rewdam versus Tooker Pasche. 7. Jac. B. R.

So for this, if one say, A. is a Felon, and a slander by, saith, Take heed what you say, And then hee saith, Why, is not hee a felon, that knew of the stealing of a horse, and did not reveal it till long after, that it was openly known? Yelvertons Rep. 154.

So also (as it seems) for this only, Thou art a concealer of Felonies. Pendants Case. Bullstr. 1. part 48.

So for this, it is said it will lye, You have bought a Roan stoln horse, knowing him to be stoln. Godb. Rep. 212. 157. Briggs Case.

And it will lye for these words, Hee is a smotherer and maintainer of Felonies, especially when they be spoken of a Magistrate. Croo. 2. 268.

Pick-pocket.

But it will not lye for this, A. hath picked five shillings out of the pocket of B. and her husband was consenting to it. Dromants Case. Yelverton. 136.

It is said, it will lye for this, A. is a theef, for he hath stoln a Lamb from B. and Geese from C. and killed them in my ground. So for this, Hee is a theef, for hee hath stoln a Lamb from A. and killed it in my ground. Hill. 3. Jac. B. R.

So it is thought it may lye for this, Thou hast taken my mony, and I will carry thee before a Justice of Peace, and lay felony to thy charge, in Godb. Rep. 202.

Averment.

It is said, it will lye for this, Hee hath no sheets in his house, but what were stoln for him. But not without this Averment, that hee hath sheets in his house. Bullstr. 1. part 141. Sed Quere of this.

So for this, it will lye, Hee stole a Mare, and was in Gaol for it. Hobb. Rep. pl. 196.

Averment.

So for this, Thou hast stoln horses in London. So for this, thou hast stoln as many horses, as I have fingers and toes. And in these cases there needs no Averment, that horses were stoln in London, or how many fingers and toes hee had.

Cut-purse.

So it is said, to lye for this, Hee is a cunning Knave, and acquainted with more cut-purses, than any man in Northamptonshire, and there is not a purse cut within twenty miles of him, but hee hath his part of it. Bullstr. 1. part 147, 36. 37. Eliz. Butts Case. But in this case it seems there must be an Averment, that there be cut-purses there, otherwise it will not lye. Popham, Rep. 180. Huttons Rep. 58.

Averment.

This

This Action will lye for words spoken thus, You are no Theef, are The manner you? spoken by way of Irony. Apletons Case. B. R. Pasche. 15. Car. i. of the words
Hill 4. Jac. Lady Morrillons Case. See March. Rep. pl. 18. So for this, spoken.
What J. S. that Theef? Nelsons Case. Pasche. 15. Jac. B. R. Hardwicks Case. Sect. 12.
40. Eliz. Co. B. By way of Interrogation.

So for this, I will justifie that Barns is a Theef. Trin. 9. Jac. B. R. So
for this, Have you brought my Horse you have Stolen. Maines Case. Trin. 9. By way of Interrogation.
Jac. B. R.

So for this, Hast thou been at London, to change the money thou didst
Steal from mee. Croo. 2. 569. So for this, Did you not hear that A. B. By way of O.
is guilty of Theft. Co. 12. 134. pinion.

So for this, I verily think him to bee a Horse Stealer, albeit hee say not
hee is one. In Goldsb. Rep. 186.

So for this, Go follow suit against Willimore [Innuendo the Plaintiff]
for Stealing the two Kine; and hang him, or I will hang thee, for this is as
much as to say, hee Stole them. Croo. 1. last publisht 904.

So for this, Hee did better than many an honest man did, for there is Opinion.
many an honest and truer man hanged. And there was a robbery commit-
ted, whereof I think him to bee one; and I verily think him to bee a Horse-
Stealer, Albeit hee do not say, Hee was one of the robbers. Goldsb. Rep.
186. Owens Rep. 18. Wisdomes Case.

So for this, Thou Mutton-munger Theef, bring home my Stolen Hay. Mutton-mun-
In Stiles Rep. 70. ger-theef.

So for this, Hee is infected of the Robbery lately committed, and doth
smell of the Robbery. Dyer. 317. 72. Godb. Rep. 91.

So for this, If thou hadst had thy right, thou hadst been hanged for
breaking of Patches House. Brownl. Rep. 3. Harris Case. 2. part 280. So
for this, If my Lord had done him right, hee had been hanged. 43, 44. Eliz.
Royal and vertues. Bulstr. 3. 360.

So for this, I doubt not, but within two daies to Arrest J. S. for suspici-
on of Felony. Co. 4. 15.

It is said this Action will lye for the words in the Cases following, viz I will prove
I will prove that J. S. hath Stolen my Books. So for this, I will bring him I will prove
before a Justice of Peace, for I will prove that hee hath Stolen my Books. And that thou hast
yet it is said the words, I will bring him before a Justice of Peace, alone stolen, &c.
are not Actionable. Pasch 15. Car. B. R. See in March. pl. 44.

So for this, I will prove thee a Theef, and a plotter of theeverie, and
I will prove it by thine own Son, or I will send him to the Devil. Croo. 2.
214.

So for this, I will justifie that A. B. is accessory to the Burglary for Accessary.
which C. D. was hanged. Barns and Hunts Case. Trin. 9. Jac. B. R.

So for this, Take charge of him, and carry him away, for I lay flat Fe- I charge
lony to him. And again afterwards for this, to the plaintiff himself, I thee with Fe-
will make you hold up your hand at the Bar. Stiles Rep. 235. Yet see Croo. lony, &c.
1. part last publisht 889.

So for this, A. was in Gaol for the Stealing of the Beasts of B. But it is Thou wast in
said, it will not lye for these words, A. was in the Gaol for suspicion of Gaol for steal-
the Stealing of the Beasts of B. Goldsb. Rep. 130. Humfrey Parloes Case. Yet ing, &c.
see Bulstr. 1. part 40. It was the opinion of most of the Judges, that it
will lye for this, Thou wert in the Gaol for Robbing such a one in the Highway.
And it was said to bee adjudged for this, Thou wert in the Gaol for Steal-
ing of a Pan. And yet, See Hobb. Rep. pl. 196. It is said to bee ad-
judged not to lye for this, Hee is in Warwick Gaol, for Stealing of a Mare
and other Beasts Hobb. Rep. 235. pl. 196.

Thou wast indicted, &c. for stealing, &c.

So for this, A. was indicted for the stealing of a Horse at a Sessions holden, &c. So for this, Thou wast arraigned at Warwick Assizes for stealing of a Horse, and didst make good friends, or else thou hadst been hanged. So for this, Hee was arraigned for the stealing of twelve Hogs, and had hee not made good friends, it had gone hard with him. So for this, A. was indicted and convicted for the stealing of a Horse, &c. But in these Cases it seems the Plaintiff must, or it will be safe for him to aver in his Action, that, it is not true which is said, that hee was indicted, &c. for if it be true, the words be not actionable. But in this Case let the Defendant see to it, hee do not plead not guilty, but justify the speaking, and the truth of them. Croo. 2. 90. Hobb. Rep. 309. Croo. 1. 195. Bullstrode. 1. part 40. And yet it is said to be agreed, not to lye for this, Thou art a false Knave, and wast arraigned for two Bullocks. For for this, Thou wast arraigned for stealing of two Bullocks. Croo. 1. part last publisht. 279. See Brownl. 2. part 272. Huttons Rep. 2. Some oppositions are against some of these Cases. Hobb. pl. 289. 296.

Averment.

Some Cases there are that say, that this Action will not lye for saying, that A. was indicted at such a Sessions for stealing a horse. For for this, Hee was impeached [or accused] for stealing of a horse. For for this, Hee was arrested, imprisoned, [or in a Gaol] or arraigned, or did hold up his hand at the Bar, for stealing of a horse. Hobb. Rep. pl. 289, 296. Goldsb. 30. Bullstr. 1. part 41. 34. Eliz. Baylyes Case. Co. B.

But in all these and such like Cases, if the thing said be true that is said, no Action will lye. But the Defendant must not plead not guilty, but justify the words, or demur to the Declaration, whether the words be actionable, or not, as his Case is.

Averment.

So for this, Whosoever is the falsest thief, and strongest in the County of Salop, whatsoever hee hath stoln, or done, A. is faller than hee. But then it must be averred, that there is some thief or other in the County of Salop, for if it may not appear there is a Felon there, the words are not actionable. Pasche. 1. Jac. B. R. Haselwood and Garrets Case. And yet it is said by some, that it will not lye for this, I can finde in the Parish a faller Knave than B. who was indicted for felony; And this Knave is J. S. In Haselwoods Case.

Averment.

So for this, Thou art as very a thief as any in Warwick Goal, with an Averment, that there is one there. Bullstr. 1. part 40. Yelverton. 90. Popham. 180.

Words of qualification.

So it is said, it will lye for words thus spoken, Thou art a Thief, and a slander by faith, Take heed what you say, and then hee saith, I will justify hee is a thief, for hee stole away my evidences. But had they been spoken together, uno halitu, it had been otherwise. But here it shall be taken for an evasion, and so a double slander; and the last words shall increase the damages. Yelvertons Rep. 154. 155.

By way of Repose.

It is said that words slanderous about this matter of theft, will be actionable, though they be uttered after this manner. A. saith that B. is a thief; Or A. told mee that B. is a thief; Or a woman told mee that B. is a thief; Or I have heard A. say, that B. is a Thief; Or I have heard it said that B. is a thief; Or B. is a thief, if the report of A. be true; Or I have heard it spoken, that B. was one of them, that was at the Robbery of A. and that four of the thieves went to his house the next morning.

Averment.

But in all these and such like cases, the Plaintiff in his declaration must aver, that the party mentioned did never say, or report any such thing; for if it be true, hee said it indeed, the defendant may justify the speaking of them. And if he report it is said by another, and can finde no author but himself, the

Action

Action will lye upon him. Croo. 2. 406. Goldsb. 139. pl. 5. See in March. Rep. 8. Croo. 2. 350. Co. 12. 134. Read against Saul. 40. 41. Eliz. Co. B.

So it is said, it will lye for this, where one man both charge another with Felony, and the Constable being present, hee saith to him, I charge you to arrest him for Felony. Croo. 1. 201. Stiles Rep. 235. So for this said to a Constable, Take charge of him, and carry him away, for I do lay flat Felony to him, I will make him to hold up his hand at the Bar. And so for this, There hee is, take him, for I charge him with flat Felony; and then for saying further, Hee hath taken my Sheep with a felonious intent. Croo. 1. 201. Mich. 23. Car. 1. B. R. Nevils Case. Stiles Rep. 60. 235. And so for this, I do charge thee with the stealing of my horse. Croo. 2. 312.

Sect. 13.

So it is said, it will lye for this, I have served thee with the Queens Letter, for stealing goods out of my house. Croo. 1. last publisht. 234.

But it is said, it will not lye for this, I fear you will bee charged for theft. For for this, I doubt you will be charged for theft, For for this, I fear [or I doubt] A. is a thief. For for this, I fear [or I doubt] you will be arrested for Felony. Hobb. Rep. 381. 286. 350. Croo. 1. 195. For for this, I have Articles against you for theft [or for felony &c.] For for this, J. S. hath found felony in A. B. and can prove it. Hobb. pl. 3. 395.

I fear, or I doubt, you are a thief, &c.

For (as it is said) will it lye for this, A. was charged with a felony, for stealing, &c. Croo. 1. 195. Hobb. Rep. 381.

For for this, to go to a Justice of Peace for a Warrant against A. and there to say to the Justice, I will charge A. with flat felony for stealing my Hops from my shop. Ram. and Lumleys Case. Huttons Rep. 113.

This Action it is said will lye for these words, I verily think J. S. to be a horse-stealer. Goldsb. 186.

So for this, I dreamed this night that J. S. did steal a horse. See in March. 58.

So for this, I can prove you a thief, and two men will justify it. Pasch. 5. Jac. B. R.

It is said, it will not lye for these words, I can finde in this Parish a falser Knave than Brisco is, the which Brisco is indicted of felony, and Burglary, and is gone to Stafford Gaol. And that false Knave is A. B. Haselwood against Brisco. Pasche. 1. Jac. B. R.

And finally it is agreed, that to call a man Theef, onely; will bear an Action, unlesse the word be coupled with some other words of qualification, to prove the thing to be no Felony, whereof the speech was intended. Croo. 1. part last publisht. 857.

Sect. 14.

But this may be qualified by the precedent or subsequent words; and therefore it is held, that no Action will lye for calling of one Theef, in the Cases hereafter following, that is to say, Thou art a thief, and hast stoln my Maiden-head. Brownl. 2. For for this, thou hast robbed mee, and taken away my evidences, and a subpoena. Godb. Rep. 89. For for this, thou art a thief, for thou hast couzened my couzen Baldwin of his Land. Huttons Rep. 113. Herbert. against Angel. Mich. 8. Car. 1. For for this, thou hast stoln the Lead from off my house, for which thou shalt be hanged. Bullr. 2. part 265. For for this, thou art a thief, for thou hast stoln the Tiles off my house. Bullr. 3. part 265. For for this, thou art a thief, for thou tookest away my Cartel upon an Execution, and I will hang thee. Mich. 7. Jac. Wilks Case. And the greater part of the Judges seem to be of this opinion, That the words of qualification and explication

Words of qualification.

And.
For.

may be brought in as well by the word And] as by the word For] See for this. Bultr. 2. part. 141. Croo. 2. 39. 114. Hobb. Rep. 98. 1. 6. 404. 476. Godb. Rep. 335. Benlooes Rep. 137. Bultr. 1. part 143. Yelverton Rep. 29. Winch. Rep. 113. Brownl. 2. part 3.

Dang.

It is said, that this Action will lye for this, Thou art a Theef, for thou hast stoln my Dung. Stiles Rep. 68.

And here we must add to all the Cases before, put of Slanders about matter of Theft, these following Rules.

Ave. ment.

1 That in many of the Cases, of words not actionable in themselves, if by the speaking of them, any special damage come to him of whom they are spoken by them, there the words may be actionable. Croo. 2. 202.

2 That for all the words herein before mentioned to be actionable in themselves, and such like, the Action will lye without any Averment of special damage by them, to the party of whom they are spoken. Croo. 1. 101. March. Rep. pl. 2. 93.

3 That these words in this chapter being such as bring a man in danger of his life, they that bring Actions upon them, or any such words, they must take care of these things.

1. The words (in the Action brought) must be laid to be spoken by the Defendant.

2 They must be laid to be spoken of the Plaintiff.

3 There must be a certainty in the description of the persons of the Plaintiff and Defendant.

4 All slanderous words of this nature must be (as other slanderous words are) under the rest of the general Rules for the Government of all sort of Actions of the Case for words; malicious, false, certain, &c. For if the words be true, or not true, but no malice appearing in them, too general, of a double intendment, or a doubtful meaning, or not sufficiently positive, or altogether incertain, either as to the persons, or to the thing it self, or under a qualification by the precedent or subsequent words, or import an intent only of doing something, but nothing is done; no Action may lye upon them.

And so we have done with Actions of the Case, for words of Slander, that bring a man in danger of his life, And in the next place shall come to Actions for such words as do not bring a man in any danger of his life, but of the losse of a Member, or some other corporal, or pecuniary punishment.

CHAP. XI.

Of words of Slander that may bring a man in danger, of other corporal punishment besides death.

Of Petit Larceny.

Seet. 1.
Petit Larceny
what.

There are some words that do not bring a man in danger of his life, but they do, or may bring him in danger of the losse of his Liberty, or of some other corporal punishment, such as are Petit Larceny, Perjury, Forgery, Incontinency, and the like. And for this, these things are to be known.

That Petit Larceny is the stealing of a thing under the value of twelve pence, or not above twelve pence. And the punishment appointed by the Law for this offence, is the losse of all a mans goods whatsoever, and also to be whipped, stocked, bound to the good behaviour, or imprisoned at the discretion of the Judge. If any therefore shall slanderously charge another with this

this Crime, or any thing like to it, hee may have this Action for his remedy. Therefore this Action will lye for these words, J. S. hath stoln six pence, or J. S. hath stoln a Hen, or a Hen and two Cocks, or any goods whatsoever under the value of twelve pence. Hobb. Rep. pl. 258. 27. H. 8. 22. Brownl. pag. 2.

And the Actions of this nature will be maintainable, without Averment of any special damage by the words. But they are to be subject to the general Rules of Actions of the Case for other slanderous words.

CHAP. XII.

Of Perjury.

Perjury is a great offence, and the punishment thereof great, for hee that is convict thereof within the Statute, is to forfeit twenty pound, to have six months imprisonment, his testimony is to be invalid; and if hee cannot pay the twenty pound, hee is to be put in the Pillory, and his ears to be nailed. 5. Eliz. cap. 5.

What it is.
Sect. 1.

Therefore it is said, this Action will lye for the speaking of these words, Thou art perjured; Croo. 4. 15. 19. Broo. Action of the Case. 104.

He is perjured.

So for this, Thou art a perjured man, 25. Eliz. B. R.

So for this, Thou art a false perjured Knave; or the like, Broo. Action of the Case. 104.

So for this, Thou wast perjured. Mich. 25. Eliz. B. R. Owens Rep. 62. Croo. 1. 144. 234. Kitch. 173.

So this Action will lye for saying, J. S. is [or was] forsworn in such a Court before a Judge of Record. So it do appear to be intended in a judicial proceeding in that Court. Croo. 4. 15. 19. Noys Rep. 34. Croo. 1. 307. But it will not lye for saying, thou art a false man. For for this, Thou art forsworn, or thou art a forsworn fellow, Croo. 1. part last published. 572. Owens Rep. 62. Croo. 1. 144. Croo. 4. 15. 19. For for this, Thou art a false forsworn Knave. Croo. 1. part last published. 429. Croo. 4. 15. March of Slanders. 2. 13.

Hee is false
forsworn.

It will lye for this, I will prove J. S. to be a perjured Knave. Croo. 1. part last published. Croo. 1. 309. Croo. 1. part last published. 374. 500. For for this, Thou hast taken a false Oath. For for this, Thou hast forsworn thy self, Croo. 4. 15. Noys Rep. 3. 222. Or thus, I will prove him to be a perjured Knave, or I will bear his charges. Croo. 1. part last published. 429.

It is said, it will lye for this, Thou hast taken a false Oath at the Assizes, and art false forsworn. Stiles. Rep. 452.

So for this, Hee hath forsworn himself in the Common Pleas. Huttons Rep. 44. So for this, thou wast forsworn at the Common Pleas Bar.

So for this, Hee is forsworn and perjured in swearing at the Common Pleas Bar, Upon the deeds which hee had in his hand. Hill. 34. Eliz. B. R. Crews Case. Owens. Rep. 13. So for this, thou hast taken a false Oath, or thou hast forsworn thy self in the Kings Bench Court. Noys Rep. 34. Croo. 1. 307.

So for this, Thou wast forsworn, and I can prove thee forsworn when I will. Bulltr. 1. part 40.

So for this, Thou art forsworn in a Court of Record, and that I will prove. Croo. 367. So for this, Hee hath forsworn himself in a Court Baron. Huttons Rep. 44. March. 1. part 56. So for this, Hee is a perjured old Knave in the Court of J. S. Pasche. 40. Eliz. Co. B. Hutchman and Southcots Case. So hee hath forsworn himself in the Court of A.

Coo:

Coo. 4. 19. 15. D^r in the Court Leet, or in the Court Baron of A. Noys Rep. 3. Hobb. Rep. 114. pl. 107.

So^r. 3.

It is agreed; to bee out of question; that the Action will lye for these words, A. was forsworn, in such, or such a Court, as in the Common Pleas, in Hereford Assises, in the Quarter Sessions of G. or in the Leet of J. S. But some doubt of this, if the words bee, that A. was forsworn at such a Court, for this may bee in ordinary discourse, and extrajudicially; but others take the Law to bee alike in both. For both these opinions, see 38, 39. Eliz. B. R. Willis. Case. 38, 39. Eliz. Cockins Case.

It is said it will lye for this, Hee hath forsworn himself, and He reach him the price of an oath, for I will have his ears cropt. Herleys Rep. 63.

So for this, Hee is falsly forsworn before the Justices of Assise, between A. and B. Herleys Rep. 188.

So for this, Thou art a false forsworn knave, and art indicted by twelve men for Perjury, and thou hast compounded for the same. Bendloes Rep. 155. Bulstr. 3. part 304.

So for this, That Perjured knave I. S. stands Perjured upon Record, at Guild-Hall London, and I will prove it. Bulstr. 3. part 283.

So for this, Thou art a Perjured knave, and standst Perjured upon Record for denying of thine own hand, and I will prove it. Bulstr. 3. 283.

So for this, Thou hast forsworn thy self at London, and there it appeareth upon Record. Croo. 1. part last publisht 583.

So for this, Thou wert forsworn, and I can prove thee forsworn when I will. Bulstr. 1. part 40.

So for this, Hee is Perjured, and I will prove him so by two witnesses, without saying, in what Court hee is Perjured. Noys Rep. 61. Owens Rep. 62. So for this, I will prove thee [or I can prove thee] Perjured. M. 7. Jac. B. R. Roberts Case. So for this, I will prove thee a Perjured knave. Yelvertons Rep. 166.

So for this, Hee is a proper witness, hee will swear any thing; hee hath already forsworn himself in the Chancery, and was committed for it by the Lord keeper. Goldsb. Rep. 444.

So for this, said to a witness, presently after hee comes out of a Court of Record, wherein hee was sworn in a cause, Hee hath forsworn himself: And yet if it bee in a Cause, wherein the speaker of the words is a party; it may not bee actionable. Hughes Rep. 42. March. 20. See Chap. 6. Sect. 9. Godb. Rep. 445.

It will lye for this, Thou Perjured Beast, 18. Jac. B. R. Bensons Case. So for this, Thou Perjured Beast, I will make thee to stand upon a scaffold in the Star-Chamber. Croo. 2. 613.

So for this, Spoken of one that is to bee a witness before a Justice of Peace; Thou hast been a contentious man this thirty years, and a breeder of strife, and hast taken a false oath against my Brother and Sister, in a matter of innocency, and hast taken twenty shillings for it, and I will shew it upon Record. Stiles Rep. 335.

So for this, when the Star-Chamber was, Thou wast Perjured in the Star-Chamber. So for this, Thou wast committed for Perjury in the Star-Chamber. Coo 4. 19. Hobb. Rep. pl. 107.

So for this, Thou hast forsworn thy self, or [thou hast taken a false oath] in the Leet of J. S. Harrisons Case B. R. Noys Rep. 34.

So for this, Thou wast forsworn, or [thou tookest a false oath] in the Bishops Court at Exeter. Hobb. Rep. 346. or in the Court of the Consistory of the Bishop of Exeter. Leonards Rep. 131. So for this, Thou wast forsworn, or [thou tookest a false oath] in the Quarter Sessions at Gloucester. 38. Eliz.

Eliz. Carlemains Case. Co. 4. 15. Hobb. Rep. 346. 360.

So for this, Thou art a forsworn fellow, for by thy false oath thou hast hanged as true a man as thy self. 39. Eliz. Brooks Case. Croo. 1. part last published 572. So for this, Hee is a forsworn man, and hath taken a false oath in his deposition at T. where hee waged his Law against mee. Croo. 2. part 104.

So for this, Spoken of a man that had preferred Articles against a man to a Justice of Peace, to have the good Behaviour against him, and taken his oath to them; Hee made a false oath before the Justice of Peace, and I have that in my house can prove it. Croo. 1. 275. Sect. 3.

So for this, Hee was forsworn before the Bishop of S. upon examination by him, by virtue of a commission out of the Chancery. But it is said it will not lye for this, Hee was forsworn before the Bishop of S. Noys Rep. 3.

So for this, Thou art a Perjured person, and thou wast forsworn in the Court of Requests, and I will make thee to stand upon the Stage for it. Croo. 1. part last published 135. Leonard. Rep. 13. Foster and Thorns Case. Or thou hast forsworn thy self in the Court of Requests. Huttons Rep. 34.

So for this, Thou art a forsworn knave, and I will prove thee to be forsworn in the Spiritual Court. Croo. 1. part last published 6. 9.

So for this, Spoken of one that had taken his oath before a Judge upon Articles in the Kings Bench, Hee made a false oath before the Judge, and I have that in my house to prove it. Croo. 1. part 275.

It is said it will lye for this, Thou art a forsworn man in Westminster-Hall. Sed Quere of this. So for this, J. S. hath forsworn himself, and I will prove him Perjured, or else I will bear his charges. Croo. 1. part last published 419. So (as it seems) for this, Hee was Perjured, and will swear one matter to day, and another matter to morrow. Bendloes Rep. 304.

This Action will lye in the North Countries, where the word main-sworn is used and known, for such words as these; Thou art mainsworn, or thou art a mainsworn man; you are a mainsworn lad, hee is a mainsworn and forsworn fellow, or the like. But then they must be spoken in the hearing of some body that doth understand them; but it need not (as it seems) be averred, that it was spoken in the hearing of such a one, nor that the meaning of the word is forsworn, &c. But it is the safest way for the Plaintiff in his Declaration, to aver the sense of the words in that Country. Brownl. Rep. 4. Hobb. Rep. 8. Brownl. Rep. 1. part. 9, 10, 14, 15. Mainsworn.

So it will lye for this, Hee hath forsworn himself before the council of the Marches of Wales, in the Suit I had against him there for Perjury, and I will sue him for Perjury. Hobb. Rep. pl. 283. 56. Brownl. 2. part 272. Averment.

So for this, Thou art a forsworn Jack in the court of A. Thou didst swear away twenty shillings from B. if hee Aver that the Court of A. is a Court Baron. Croo. 1. part last published 348.

So it will lye for this, Hee was Perjured in the Kings Bench Court. Albeit hee were never sworn there. Co. 1. part last published 569. But it will not lye for saying, Hee was forsworn in the Kings Bench, for this is doubtful whether to be taken, of the Court, or of the Prison called the Kings Bench. 41, 42. Eliz. B. R.

This will lye for a Charge of Perjury, upon a voier dire, as well as upon an Issue, for this is punishable by the common Law. Mich. 7. Car. 1. Lawdries Case.

But this Action will not lye for this, Hee is a proper witness, hee will swear any thing. Nor for this, Hee is a false man. But it will lye for saying, Hee is a false Perjured man. Godb. Rep. 88. 89.

For for this, Thou art a forsworn Knave, and that I will prove, for thou wast forsworn in the Hundred Court. Innuendo Staverton Hundred Court. Croo. 1. part last publishr. 209.

For for this, A. hath but one Mannor, and he hath gotten it by swearing and forswearing. Croo. 4. 15.

For for saying this to a man newly sworn in a Court, You are forsworn, without more words, as saying, in the testimony you have given, or oath you have taken, or the like. Mich. 7. Jac. B. R. Cawdries case.

For for this (as it seems) Thou wert detected of perjury in the Star-chamber. Croo. 1. part last publishr. 371.

General words
and incertain.
Sect. 4.

It is said it will not lye for this, Thou art a false forsworn Knave, and that I will prove, for thou hast forsworn thy self against A. B. in the Hundred Court, because it doth not appear by the words that it was in any Suit wherein he was a witness. Yelvertons Rep. 27. Croo. 1. 209. and yet this seems to be contrary to some of the fore-going Cases, where it is said to be adjudged to lye for saying, A man was forsworn in a Court Baron. Huttons Rep. 44.

It is said that it will not lye for this, Thou art a forsworn Knave, and was forsworn at H. Court.

Innuendo.

For for this, (as it is said) Thou art a false forsworn Knave, and didst take a false Oath against me at a Commission at E. (Innuendo, out of the High Commission, for an Innuendo may not enlarge the sense of the words. Huttons Rep. 44.

For for this, King is a false forsworn Knave, and took a false Oath against me at a Commission at Witham, because it did not appear whence the Commission came. Noys Rep. 2.

For for this said of the Side-man of a Parish, Thou hast most perjuriously presented me at the Visitation, before I. S. Official. Yelvertons Rep. 72. Croo. 2. 80. 120.

For for this, Thou wert forsworn in Canterbury Court, for no Court is so called. Huttons Rep. 34.

For for this, Thou wert forsworn in Whit-Church Court. Croo. 1. last publishr. 609. *For for this*, Thou art a forsworn man, thou wert forsworn in Whit-church Court. Croo. 1. 275.

For for this, Thou art perjured, for thou art forsworn in the Bishop of Gloucester his Court. Croo. 2. 436. and yet in Croo. 2. 185. it is held to lye for saying of a woman, Thou hast taken a false Oath in the Consistory Court of Exeter.

General and
incertain words.

This Action will not lye for these words, Old Aphorp is a perjured Knave, for he did swear that such wood was worth forty shillings, where-as it was dear of a mark. Bullstr. 3. part 150.

For for this, A. is a perjured old Knave, and that is to be proved by a stake parting the Land of A. and B. Croo. 4. 19.

Incertainly.

For for this, I marvaile you would marry your Daughter to such a forsworn man. Bullstr. 1. 150.

For for this, I know who spoke those words, Winitte and Bell, perjured Rascalls, I mean to have their ears cut, and tongues cut out, for here being no Christian name, Non constat de persona. Bendlows Rep. 134. *For for this*, Thou art forsworn, and hast taken a false Oath at Hereford Assizes, for this might be out of a Court in an ordinary speech. But if the words be, He took a false Oath in Hereford Assizes, it were more dangerous. Pasche. 15. Car. B. R. or it be averred to be in a Cause there, then the Action will be maintainable. Cro. 1. 209. March. Rep. pl. 17.

For will it lye for this, He is detected for perjury in the Starre Chamber. Croo. 4. 16.

For

Not for this; Thou hast got thy living by swearing and forswearing, Mich. 9. Jac. B. R.

Some have said that it would have laine for this, He hath delivered an untruth in a material thing in the Starre Chamber. Croo. 1. part last publisht. 583. And yet it is agreed not to lye for this, Hee hath delivered an untruth in his Answer in the Chancery. 38, 39 Eliz. Browns Case. Croo. 1. part last publisht. 375. 500. yet it was said to bee agreed to lye for this, He is forsworn in his Answer to Chrittmers Bill in the Chancery. Croo. 1. 234. Noys Rep. 36.

It hath been held to lye for this, Thou art thrice perjured in thy Answer in Chancery to my Bill. [Innuendo such a Bill, &c.] Croo. 1. last publisht. 907.

This generally is the Rule for these Actions of the Case for this kind of Slander, That they must import a charge of a Perjury, in some judicial Court, and in an oath taken in the Court, and in such a Court that hath Consuance of the cause wherein it is taken, and judicially taken there in the cause, and in a thing material and pertinent, otherwise the perjury is not punishable as perjury; for every untruth; in an answer, or evidence, is not punishable; and therefore any charge of a Perjury, in any case wherein it is not punishable is not Actionable; nor will an Innuendo make a supply, or alter the case where the words are defective, as Innuendo to a judicial Court, &c. Huttons Rep. 44. Sect. 1.

It is said it will not lye for this, He hath forsworn himself at the Bar. Huttons Rep. 44. Not for this, Thou art forsworn in Collet Court, not shewing what this Court is, and in what Action it was. Croo. 1. 190.

Not for this, The Plaintiffe hath forsworn himself, Innuendo before the Justices of Assize, for the words not actionable, the Innuendo cannot make them actionable. Croo. 1. part last publisht. 609.

If one call another Whore, and the Due in the Spiritual Court for this defamation, and the Defendant brings in witnesses to prove it, and to disparage the witness, he put in an exception into the Court, That hee had been perjured, this was admitted lawful, Trin. 15. Jac. B. R. Westovers Case against Davenet.

If a Cause be depending between Plaintiffe and Defendant, and the Defendant upon the reading of an Affidavit of the Plaintiffs made in Court, said openly in the Court, There is not a word true in the Affidavit, which I will prove by forty Witnesses; in this Case the Action will not lye for the words, for it is in the defence of his title, Pasche 15. Car. B. R. Mutton against Clapham; nor for saying to one that hath newly given evidence against him in any Court, Thou art much forsworn as God is true. Goldsb. and Brownl. 7. March. Rep. pl. 45. Molton against Clapham.

It is said that it will lye for this, Thou art not so honest a man as thou takest thy self, for thou hast drawn I. S. into Perjury. Croo. 1. part last publisht. 899. 906. For suborning and procuring of Perjury.

So for this, He is a suborner of perjury. Croo. 1. part last publisht. 308. So for this, Thou art a procurer of perjury. 25. Eliz. B. R.

So for this, You have caused J. S. to perjure himself. Brownl. 1. part 2. and 2. 49.

So for this, Thou didst suborn, procure, and bring in false Witnesses in such a Court in Westminster, &c. Leonards Rep. 101.

So for this, Thou hast procured eight or ten of thy Neighbours to perjure themselves. Mich. 4. Jac. B. R. Fenner and Muttons Case.

So for this, Thou hast procured [or suborned] one Smith to come thirty miles to commit perjury, before my Lord of Winchester, and hast

hast given him ten pound for that purpose. Croo. 2. part 158. Croo. 1. part 244. And yet if the words had such an import that he did not take the Oath when he came, it may be otherwise; Croo. 2. part 158.

So for this, Thou hast given A. ten pound for forswearing himself in Chancery, and thou hast hired him to forge a Deed. Croo. 2. part 244, 245.

Parson Prius Case in Suffolk was this, in Baster Foxes Book there is a relation of one Greenwood of Suffolk, who is there reported to have perjured himself before the Bishop of Norwich in the giving of evidence against a Martyr, and that after by Gods Judgement upon him his bowels rotted away, and all this was false. And the Parson not knowing the truth of it, preached against Perjury, and cited this story of Gods Judgement upon Greenwood, who brought his Action for this slander, but it was adjudged against him, because it was not brought maliciously.

This Action for such like words as these, about matter of Perjury, is to be subject to the general Rules annexed to the rest of the Cases at the end of other chapters, that the words are actionable, without Averment of any special losse by them; so as they be false, malicious, direct, certain, &c. See for this, Croo. 1. last publishr. 169.

CHAP. XIII.

Of Forgery.

Sect. 1.

Forgery is also a great offence, and the punishment thereof great, by the Statute of 7. Eliz. chap. 14. For the offender may for this be put in the Pillory, have one of his ears cut off, and be imprisoned for a year. If any one therefore shall charge another with this Crime, or any thing like unto it, the party wronged by it, may have his remedy by this Action.

Of a Deed.

It is therefore agreed, that this Action will lye for saying of another, Thou hast forged a Deed. Owens Rep. 47.

That he hath forged a Lease, Obligation, Release, Acquittance, Feoffment, or other Deed. Croo. 1. part last publishr. 554. 607. Owens Rep. 47.

So for this, Thou art a forger of false Deeds.

So for this, Thou art a forger of false Writings.

So for this, Thou art a forger of Writings. Dyer. 285. Pasche. 39. Eliz. B. R. Wades Case. 39. Eliz. B. R. Goodalls Case. Croo. 1. last publishr. 553.

Adjective words,

But it will not lye for saying, One is a forging Knave. Goldsb. 25. pl. 5. For for this, Thou art a Knave of Record, and a forging Knave. Popham. Rep. 177. But it will lye for this, A. hath procured such a Deed (Innuendo, such a Deed given in evidence) to be forged.

So for this, Hee falsly procured such a deed to be forged. Hetleys Rep. 31.

So for this, This is a forged deed, and you know it to be forged. So for this, You made this deed under a hedge, and forged it. Owens Rep. 47.

So for this, Thou hast forged the will of J. S. Pasche. 7. Car. 1. B. R. Mackenists Case.

So (by one Judge) for this, thou hast forged my Fathers will, Popham. 177. But in Winch. Rep. 40. It is said to be adjudged not to lye for this Mallard is a Knave, and forged my Husbands will against his mind. 10. Jac. for then it was not her Husbands will, if it were forged.

So for this, The deed which Sir George Reynel shewed forth to Sir John

John Tindal was forged, and made under a hedge. Bulstr. 2. part 132.
133.

So for this, Thou hast hired A. to forge a Deed [or to forge a Bond.] Croo. 1. part 244. 245.

So for this, Hee hath forged an Obligation, and I will prove it. Croo. 1. last. publishr. 603.

This Action (it is said) will lye for this, Thou hast forged my Fathers hand, whereby thou hast received my Rent. Bulstr. 3. 265.

But this Action will not lye for words thus uttered, I have matter enough against J. S. for Mr. Harley hath found Forgery, and can prove it against him. Hobb. Rep. 3. 467. pl. 395. 382.

For for this, I have found Forgery against thee, and can prove it. Huttons Rep. 39.

This Action (it is said) will lye for this, Thou hast forged a Record in Abergaveni Court. Mich. 7. Car. 1. B. R. for this is punishable by the Common Law, though not by the Statute. Of a Record.
Sec. 2.

So for this, Thou hast forged a Recognizance taken before Fisher and others. Croo. 1. last publishr. 883.

So for this, Thou hast sued out a Writ against mee, and got a counterfeited Warrant of thine own making. Mich. 10. Jac. B. R. Stones Case. It lay for this.

So for this, Thou hast forged a Privy Seal, and a Commission, why dost not thou break open thy Commission. Croo. 1. part 237.

So for this, A. hath forged the last Queens Writ. Yelvertons Rep. 146.

So for this, Thou hast forged a Writ of Quare impedit. Croo. 1. part last publishr. 178.

So for this, Thou camest with a counterfeit Commission; when hee had a good Commission. Yorks Case.

So for this, said of a Warrant on a Latitat that comes under the Sheriffs name, This is a counterfeit Warrant made by Mr. Stone, Innuendo, the Plaintiff had counterfeited it. Croo. 2. 648.

So for this, said of one that had got a License out of a Court to compound with an Informer, That hee forged it. Bulstr. 4. part 136.

So for this, Thou hast couzened the state of two thousand pound, and hast foisted in words into the order of composition. Stiles.

But this Action will not lye (as it is said) for this, Thou hast made a false Bond. For for this, Thou hast made a false Deed. Pasche. 39. Eliz. B. R. Of a Deed.
Sec. 3.

For for this, This is the writing of J. S. hee hath forged this Warrant. Hobb. Rep. pl. 3.

For will it lye for this, A. shewed mee a Bill of forty pound [Innuendo such a Bill as White had made him] unsealed, and after he shewed it him sealed, and that A. had forged a Seal to the said Writing. Hobb. Rep. pl. 8. 48.

For for this, This is John Thomas his writing, hee hath forged this Warrant [Innuendo, a Warrant made, &c.] for its incertaintie in the words, warrant, and the Innuendo will not ascertain it. Hobb. Rep. pl. 4. 48. Thomas and Areworths Case. Innuendo.
Incertainry.

For for this, Hee hath forged a Warrant, for it may be a warrant for a Buck.

It was the opinion of some Judges, that it may lye for this, thou art a forger of Writings. But of others not. Croo. 1. last publishr. 553.

For for this, Thou art a couzening Knave, and shewest forth a forged Deed. Bulstr. 2. part 133. § 2

For for this, Hee hath forged a Writing; For this is altogether incertain. Hobb Rep pl. 3. 30. and an Innuendo such a writing, will not make it certain and actionable. Hobb. pl. 48. Harvey and Duckins Case. And yet it will lye for saying, Hee hath forged a Deed. Owens Rep. 47.

This Action will not lye for this, Hee hath made a false Bond. Croo. 1. last publishr. 607.

It is said to be adjudged not to lye for this, Thou art a forger of false Writings. Yet see the contrary before said to be adjudged otherwise.

For (as it seems) for this, Thou hast made false writings, thereby to get my Land from mee. Croo. 1. part last publishr. 855.

Of a Record.

Innuendo.

For for this, One of you forged a Subpena out of the Chancery, Innuendo the Plaintiff, for this is incertain, and the Innuendo will not make it certain.

For for this, Thou hast made the great Seal.

For for this, Thou wast cubbed up for forging of Writs. Croo. 1. part last publishr. 234.

For for this, Hee hath made false Records, and verifies them. Stanhops Case.

For for this, Thou gettest thy living by false Writs.

But here we must also annex the former Rules.

1 That for many of the words before names not actionable, if the party of whom they be spoken have any special losse by them, hee may have this Action for them.

2 In this Action hee need not alledge any special damage by the words, where the words are in themselves actionable.

3 But the words must be malicious, false, certain, and under the Rule of qualification by other words, for by these things the words that otherwise in themselves may be actionable, may prove unactionable.

CHAP. XIV.

Of Words of Slander about Matter of Incontinency.

Seft. 1.

As to this, these things are to be known.

1 That Slanders are Defamations of this nature being said to be spiritual, and properly to be heard and Determined in the Spiritual Court, and there the party grieved by them is to have his relief.

2 That a charge of Incontinency is notwithstanding (in the eye of the Common Law) a foul charge, and punishable in divers cases by corporal punishment, for if a woman have a Bastard, shee is by this made liable to such punishment as the Judges in discretion shall inflict, and they alwaies inflict, whipping, imprisonment, or the like.

3 That generally this Action will not lye for Slanders of this nature, but in Cases where a man hath, or is like to have some special damage by the speaking of the words. And yet in some special Cases the Action is given, because it is necessarily intended to be a damage to the party of whom they are spoken, and that it cannot be otherwise.

4 That whiles there was a Law to punish more severely Adultery, Fornication, Bawdy, and the like offences, the speaking of words of this nature might happily be more dangerous than now it is, that this Law is removed. See Stiles Rep. 424. 452. 455.

It hath therefore been adjudged, resolved, or ruled by the Judges. And it is said by them, that this Action will lye for this, You are a Whore, and have played the whore with so many men, you cannot number them. And that

that Judgement was given in this Case for the Plaintiff without Averment of any special losse by the words. Stiles Rep. 328.

So for this, This is the Whore that my man C. did beget a Bastard upon, and spent all my money upon, and the Quen hath been too long in Town for my ease. Stiles Rep. 274, 277.

So it will lye for this said of one about to be married, Shee is a Whore; and I will maintain it, and I will spoil her marriage. And it was said, it shall be actionable, albeit shee did not lose her marriage by it. Bendloes Rep. 148. Godb. Rep. 273.

So it is said it will lye for this, Thou art a Whore, and I will prove thee a VVhore, and thou hast made my house a Bawdy-house. VWilliams Case. B. R. Trin. 1655.

So for this said to a woman married, Thou art a common Bastard-bearing Whore, and hadst two Bastards by a Butcher, and I will prove it. Stiles Rep. 424.

So for this said to a Maid, or Woman, Thou art a Whore, and hast had a Bastard; or to a man, Thou art a Whore-master, and hast had a bastard. Bulstr. 2. part 90. And yet there in his 2. part 89. it is said to be agreed that it will not lye for these words, Thou art a Whore.

For for these words, Thou art a Whore-master, or, thou didst lye with such a woman; or, such a man did lye with thee, except hee have some special damage by the words. Cro. 4. 16. 17. Croo. 2. 163. Mich. 39. Eliz. B. R. and that without any Averment of any special losse, for they are by Law punishable for this. Croo. 4. 17. Sect. 2.

So for this, He hath got Mary Nob with childe, and the childe is his, and I have tried it with a Sieve, and a pair of Sheeres; for the first words, although the latter words be insensible. Stiles Rep. 379. Averment.

So for this spoken of a Lady to whom the Earl of Kent was a Suito, By report. A. hath reported that he had the use of her body [Innuendo, that he had carnal Copulation with her] whereas A. did never make any such Report. Croo. 2. 162.

So for this, She is a VVhore, and I will prove it, and her plying place is in Cheap-side, and she gets torrey shillings a night by playing the whore. Hills Case, B. R. Stiles Rep. 394. but it seems it was for the last words.

So for this, said of a Bastard childe whereof A. B. was delivered. Hee, [Innuendo the Plaintiff] is the reputed Father of the Bastard. Innuendo the said bastard childe; if withall he aver, that hee lost a preferment in Marriage by it, or that it was the bastard of one not able to keep it, or that it was some special losse by one way or other to him; and not otherwise. Croo. 1. 113. Averment.

So for this, Thou art a VVhore-master, and hast laine with Browns Wife, and hadst to doe with her against a chair; if thereby hee lose his marriage, &c. Croo. 2. 323.

It is said to be adjudged to lye for this, My VVife is a VVhore, and she was naught with VV/S. [Innuendo the Plaintiff] and had I had a candle, I had taken them together doing the deed. VVich an Averment, that he did by this lose his preferment in marriage. Bulstr. 3. part 48. Averment.

So for this, where a rumour is abroad of a Bastard or woman, for this, I doe verily beleeve the bastard child was thine; and this Action was laid without any Averment that there was such a Bastard; and if there were none such, let the Defendant plead it, and save himself. Stiles Rep. 221.

It is said that this Action will not lye for this, Thou art a VVhore, and I. S. hath had the use of thy body; the Cart is too good for thee, without the averment of some special damage by the words. Croo. 1. last publication.

liht 582. 583. Goldsb. 172. So neither will it lye for this, A. is an arrant Whore, and would have lain with mee seven years since, and I would not unless shee would go to the hedge. For this is a spiritual slander only. Croo. 1. part last publisht 582. 587.

Sect. 3.

For for this, Shee is an arrant Whore, and hath had two bastards in Ireland. Brownl. and Goldsb. Rep. 16.

For for this, Hee is the reputed Father of that Bastards Childe, Innuendo, &c. Unless hee aver that some temporal losse that came unto him by it, as a losse of marriage, or that it is such a ones Bastard as is not able to keep it, and so hee by this is charged to keep it, or chargeable to the Parish, or the like. Croo. 1. 315.

For for this, Thou art a common Quean, a base Quean, a pipperry Quean: Winches. Rep. 14.

For for this, Thou art the hackny whereof J. S. Bodins Case. For for this, Thou art a Quean and a cheevish Whore. Hill. 17. Jac. B. R. For for this, Thou wast rid up and down Stairs. M. 9. Jac. B. R. March. 2. part. 5. Noys Rep. 75. Stiles Regist. 8. Croo. 4. 18. And yet if these things were true, a man should be punished for them with corporal punishment, as imprisonment, &c.

For will it lye for this, Thou art a forsworn Whore, and an old Baud. William Read and his Wives Case. Hill. 15. Jac. B. R. Croo. 462. For for this, Thou art Marcombes Hackny, thou art a theeving Whore, and a pocky Whore, &c. Croo. 2. 514. Godb. Rep. 278. Stiles Rep. 100. But perhaps these words spoken in London may lye.

Pick-pocket

For for this, Away you Pick-pocket, thou art a scurvy pocky Whore. Albeit a special losse may be averred by these words. Croo. 2. 499.

But it is generally held, that no Action will lye for calling of a woman (bee she married or unmarried) Quean, Harlot, Whore, common Whore, Adulteress, Pimpe, Baud, base Quean, common Quean, pipperry Quean, or the like. For for calling of a man, Whoremaster, common Whoremaster, Whore-munger, Adulterer, Fornicator, Whorson, or the like. For any of these words alone, without other words with them. Croo. 1. 168. 189. 239. 288. 315. 27. H. 8. 17. Croo. 4. 15. 17. Noys Rep. 75. 85. Winches. Rep. 14. Croo. 2. 499.

And yet to call one Whore in London, it seems is Actionable. Stiles Rep. 229. 245. Croo. 4.

So also may any of the other words be Actionable, if by the speaking of them, hee of whom they are spoken have any special damage, as that hee loseth his marriage, or a personage, hee is like to have: And thus hee must be sure to aver in a Declaration, or the like, and not otherwise. Stiles Rep. 287. Croo. 4. 16. Bulstr. 2. part. 90. Croo. 1. 293. Godb. Rep. 275.

For calling one Baud, or saying he keepeth a Baudy-house.

Sect. 4.

It is agreed, that this Action will lye for any man or woman, (especially such a one as keeps an Inn, Alehouse, Tabling-house, a common Dravelling-house; for these words; Hee [or shee] keeps a Baudy house. So for this, Hee [or shee] keeps a house of Baudry. Bulstr. 1. part 138. Croo. 4. 14. 18. Stiles Rep. 322. 326. Croo. 1. 189. 166. 239. 255. Croo. 1. part last publisht 582. Brownl. 1. part 162. Kitch. 173. Noys Rep. 72. 73. &c. 117. March of Slanders 2. part 5. Stiles Regist. 8. Croo. 1. part last publisht 787.

London.

And these words are most dangerous to be spoken in London; for, for this offence a man may be Indicted, fined, and Imprisoned; and in London Ignominiously Carted also. Eliz. Thorns Case 24. Jac. B. R.

So for saying, A. the wife of B. is a Baud, and keeps a Baudy house. Croo.

Croo. 1. 286. 350. March. Rep. pl. 249. Hughes Abridgement. 40. Trin. 16. Car. 1. B. R. Morgans Case. Trin. 18. Car. 1. B. R. Chambers Case.

And to speak such words of one that keeps a Common house, Inn, &c. this will bear an Action without Averment of any special losse sustained by the words, but in other Cases it seems to be necessary. And yet it is said in some Books, that the Action will not lye for this, Hee keeps a Common Bawdy-house. See for these things. Croo. 1. 168. 189. 239. 288. 27. H. 8. 17. Co. 4. 17.

It seems that this Action will not lye at this day for saying of a man or woman, That hee [or shee] is a Bawd. And yet in London these words may happily be actionable. Stiles Rep. 322. 323. Croo. 1. 168. Noys Rep. 85. 27. H. 8. 14.

It is said to have been adjudged to lye for this, Thou art a Whore and a Bawd to thy Daughters, and keepest a Bawdy-house. Stiles Rep. 326. Hill. 3. Car. 1. Elsey and Harrisons Case.

So for this, Hee is not fit to bear office in such a place, for hee keeps a Common Bawdy-house in London. Bullstr. 1. part 138. 27. H. 8. 15.

But it is said, it will not lye for this, Thou art a Pander to Sir H. Vanyham. Noys Rep. 74.

But here also, as in the other heads of Actions of the Case, for Slandrous words, this is to be added, That where the Action shall be maintainable for words of this nature, they must be malicious, false, certain, and under the Rule of qualification by other words. For if the words be true, or without malice, incertain, or such as may be qualified by the rest of the words spoken with them; no Action will lye upon them.

CHAP. XV.

Of other words importing some charge of transgression of a Penal Law.

There are some other words that may sound to the hazard of a mans losse of his liberty, or of the enduring of some corporal punishment, for which this Action may lye. And therefore it is held, that this Action will lye for saying of a man, That hee spake against the Book of Common-Prayer, and said it was not fit to be read in the Church, in case where he can, and doth aver in his Action, that he hath any special damage by it, as that by this means hee was cited into the Ecclesiastical Court, and there put to trouble and expence, &c. otherwise not. Brownl. 1. part 10. 13. 2. part 100. 129. March. Rep. pl. 191.

Sect. 1.

Speaking against the book of Common-prayer.

Averment.

It is said, that this Action may lye for calling of a great man Papist, or Recusant; or for saying, that hee hath a pardon from the Pope; or, that he can help any man to such a pardon. But otherwise it is of such words spoken of an ordinary man. Brownl. and Goldsb. 12. Brownl. 2. part 166. March. Rep. pl. 191. Leonard Rep. 335.

For saying of a man, hee is a Papist, or hath been at Mass, or hath said Mass, or is a Priest. Papist. Recusant. Priest.

It will not lye therefore against a man for saying of another, That hee is a Simonist, a Recusant. Croo. 2. 284.

For for this, Thou art an arrant Papist, and it were no matter if such were hanged; and thou, and such as thou wouldst pull the King out of his Sear if they durst. Hobb. Rep. pl. 187.

To say of one, Hee is a Mass-Priest, or hath said Mass, or hath heard Mass divers times, may be actionable. And to say of one, that hee received a Mass-Priest into his House, knowing him to be such a one, is dangerous. Bullstr. 1. part 181.

But to say of a man, Hee hath received a Recusant, without more words

Erecting a Cottage.

Eat Flesh Fridays.
Sabbath-breaker.

Strike in a Church

Champerlor.
Maintainer of Suits.
Buyer of Tithes.
Slander of an Officer.
Maintenance.

Rioter.
Maker of forcible Entry.

Forestaller.
Regrator.
Ingrosser.
Common Drunkard.

Common Swearer. Sect. 2.

Common
Libeller.
Slanderer.
Quarreller.
Breaker of the Peace.
Affrayer.
Night-walker.
Eve-dropper.
Hedge-breaker.
Misfeasor.

Common Barretor.

Knave.

words is not actionable. Godb. Rep. 106. Croo. 2. 484.

This Action will not lye for saying of a man, Hee hath erected a Cottage contrary to the Statute. Godo. pl. 125. 106. March. Rep. pl. 191.

Not for saying, You did eat meat on a Friday. Not for this, You did eat flesh Fridays. Godb. pl. 125. March. pl. 191.

Not for this, Thou art a Sabbath-breaker.

It may happily lye for saying, Thou didst strike another in a Church with a weapon. But not for this, Thou didst quarrel in the Church. Godb. 125. March. Rep. pl. 191.

It hath been said, that it will not lye for saying of one, Hee is a Champertor, or a Common Champertor, or a Common Maintainer of Suits, or a Common Buyer of Tithes. And yet this said of a Judge, Justice of Peace, Attorney, or such like officer, may be actionable. Hobb. Rep. pl. 145. and Hares Case. And yet in a Case B.R. 35. Eliz. It is said by Popham, Chief Justice, that it had been adjudged to lye for this, Thou maintainest such a Sute. Croo. 1. part last published. 297. See Hobb. Rep. pl. 188. Hetleyes Rep. 139. 143.

Not for this, Thou hast made a forcible Entry into Lands. Not for this, Thou art a common Rioter, or thou hast committed a Riot. And yet some think, that this may be actionable. Mich. 8. Car. 1. B. R. Stones Case.

Not for this, Thou art a Forestaller, Regrator, and Ingrosser.

Not for this, Thou art a common Drunkard, a Drunkard, or a drunken Fellow. And yet some say it may lye for the first of these words. Croo. 1. 207. March. 1. part of Slanders. 46. M. 8. Car. B. R. Finches Law. 186.

Not for this, Thou art a common Swearer.

Not (as it seems) will it lye for any charge of an offence against a venial Law, which doth not inflict Corporal punishment, save only in case of non-payment of the penalty.

This Action will not lye for any of the words in the Cases following, viz. for saying, Thou art a common Libeller, or a common Slanderer, or a common Quarreller, or a common breaker of the Peace, or a common Affrayer.

Not for this, Thou art a common Night-walker; not for this, Thou art a common Eve-dropper; not for this, Thou art a common Hedge-breaker; Not for this, Thou art a common Misfeasor. Kitch. 173. 22. Aff. 31.

This Action is said will be maintainable against any man that shall say of another, hee is a convicted Barretor; and for saying of a great man, of a Judge, Justice of Peace, Attorney, or the like Officer, He is a Barretor, or He is a Common Barretor.

But it will not lye for saying of a Common person, He is a Barretor, or He is a common Barretor. Hob. Rep. pl. 188. Hetlies Rep. 139. 143. Croo. 3. 171. Croo. 1. part last published. 171. Kitch. 173. Goldsb. and Brownl. 11. Hobb. Rep. pl. 188. Yelvertons Rep. 90.

It is said that it will lye for this, Hee hath been indicted for Barrettry, if it were true, he was Indicted, and upon the Indictment acquitted. But had he been found guilty upon the Indictment, then the speaking of the words are justifiable. Stiles Rep. 49.

But it will not lye for this, Thou art a common Barretor, and I will Indict thee for it at the next Sessions. Hobb. Rep. pl. 188.

Not will it lye for calling of one (that is an ordinary person) Knave, or false Knave, or cozening Knave, or cheating Knave, or crafty Knave,

or the like, will not bear Action. But to call one Bankrupt-knave. Tray-
tor-knave, or Perjured knave, or the like, *Huttons Rep.* 13, 14. *Bulstr.* 2.
part 218. *Stiles Rep.* 17. *Finches Law.* 186.

For will it lye for this, Thou art a Villainous Knave; nor for this Thou
art an arrant Knave, *Croo.* 1. last publishr, 403. *Finches Law.* 186.

And yet it hath been adjudged to lye for this, Thou art a Pillory-Knave.
Remember Brown, thou shouldest have been set on the Pillory. *Croo.* 1.
last publishr 11. Brown and Dawks and 26. *Griffiths Case.* Co. B. But in
B. R. the Court seemed to be of another opinion. *Croo.* 1. part last pub-
lishr 31.

To have called a man Villain, when villenage was in force, would not
have born Action; unless hee had said, Villain to such a man, or Regar-
dant to such a Wanno. *Finches Law* 186.

It is said this Action will lye for this, You are a branded Rogue, and
have held up your hand at the bar, and deserve to bee hanged, and shall
bee hanged, *Stiles Rep.* 49. 50. *Bulstr.* 1. part 138. *Popham Rep.* 177.

So for this, Thou, Sirrah, art a Rogue, and a runaway Rogue, and
didst run away from Oxford, and art a Rogue upon Record at Oxford.
For these last words only. *Stiles Rep.* 220.

But it is said, that this Action will not lye for this alone, Thou art a Vagabond
Rogue. *Co.* 4. 15. *Kitch.* 173. For (as some have held) for this, Thou
art a branded Rogue. *M.* 9. *Jac. B. R. Harrisons Case.* For will it
lye for calling a man Vagabond and a Rogue. *Croo.* 1. last publishr 843.
157. *Finches Law.* 186.

This Action will not lye for all these words spoken together, Thou art
a Villain, Rogue, Couzener, Villainous Knave, and Blood-sucker, Varler, Villain.
Rascal, Vermine of the Earth, false Brother, Liar, Conspirator, Railor, Rogue.
Sower of Discord, Malefactor, Miscreant, Hypocrite. And therefore a Couzener.
Fortiori, the Action will not lye for the speaking of any one, or of some of Blood-sucker.
these words. *Popham. Rep.* 177. *Bulstr.* 1. part 138. *Co.* 10. 131. *Croo.* Vermine.
1. 352. *Jenk. Cent.* 7. *Case* 70. *Kitch.* 173. *Croo.* 2. 473. *Huttons Rep.* False Brother.
13. 14. Liar.
And yet some of these words spoken of an eminent person, as a Par of Conspirator.
the Realm, may be actionable. *Leonards Rep.* 335. Railor.

For will it lye for this, to say, Thou art of ill Name; for the Law looks
upon these but as hasty, passionate, and foolish words, not worthy of Action.
But here it is to be observed, that for many of the words not actionable,
they do notwithstanding import crimes subject to severe punishments, viz.
Imprisonment, Pillory, Fine, to be bound to the good behaviour, and the
like; And therefore it is granted, that some of these words, when spoken
to eminent persons, or to ordinary men in Office, or Trade, with reference
to their Offices, and Trades, or to any man whatsoever, that is specially
damned by them, they may be actionable. *Co.* 4. 15. 17. 20. *Mich.*
19. *Jac. B. R. Harrisons Case.* *March. Rep.* 114, 115. *Brownl.* 1. part 9.
10. 12. *Leonards Rep.* 335.

And now that we are fallen upon some words spiritual, whereof our
Common Law taketh no notice to punish, and upon light, passionate, and
vain words, not actionable, we will give you the residue thereof in this
place.

CHAP. XVI.

Of words Spiritual, Passionate, and Vain, for which no Action is given.

Sect. 1.

There are some other words, that have an import in them of Infamy and discredit, but are said to be of a spiritual nature, and not under the Countenance of the Common, but of the Civil Laws. And there are other words that are said to be only passionate, vain, and empty words, for either of which the Law gives no Action.

Spiritual Slanders.

It is held therefore, that to call one Bastard, Whore, Whoremaster, Advowterer, Fornicator, and the like, these Slanders (if any be in them) are merely spiritual, and are properly examinable and determinable in the Ecclesiastical Court. And therefore the Common Law doth not intermeddle with them, but in Cases where they are intermingled with some temporal damage occasioned by them to any man; in which Cases the Law doth give him repair for his damage only by this Action. And therefore the Plaintiff in such Actions is alwayes to make in his Suit brought a special Averment of his damage. Otherwile the Temporal Courts have no Countenance of the Cause. For this see chap. 14. And therefore no Action will lye in any of our Temporal Courts, for any charge of Incontinency (as a Defamation only) for calling of one Whoremaster, or Whore, for saying, that one was naught with another, that hee or shee hath had children by another man, or by another mans wife, or the like. But for this, he is to have his remedy in the Spiritual Court.

Heretic.
Schismatick.
Miscreant.
Advowterer.
Fornicator.

But if one man call another Heretic, Schismatick, Bastard, Miscreant, or the like, no Action will lye for this simply in any of our Temporal Courts, except the Case be such, that there be some special damage occasioned thereby to the party of whom the words are spoken. It hath been therefore adjudged, that this Action will not lye for saying, that hee had two Bastards, and should have kept them; and that by reason thereof discord was arise between him and his wife, and they were like to have been divorced. Croo. 2. 473. And 27. H. 8. 14. 17. Croo. 1. 16. 17. 26. Croo. 2. 163. 473. Bulstr. 2. 89. 12. H. 7. 22. Noys Rep. 85. Croo. 1. 1407. 186. Goldsb. 36. Hobb. Rep. 376. 397. Croo. 5. 57. See chap. 9. chap. 14.

The words that follow are light and trivial, or vain and passionate words; And therefore (as we have shewed before) they give no Action, as for any of these words: Villain, Rascal, Knave, Bastard, Varlet, Cheater, Condemner, Raiser, Liar, Miscreant, Vain, Hypocrite, and the like; except it be evincible where some special damage comes thereby to the party of whom the words are spoken. And it may be a real and considerable damage also, for an imagination, or suspicion of damage only will not suffice. Croo. 2. 473.

Vermine.
False Brother.
Rogue.

And these following words are looked upon as trivial words, for which no Action is given, viz. Thou art a Vermine of the Earth, a False Brother. 27. Eliz. B.R. Thou art a Rogue, and I will prove thee so. Goldsb. 2. part 137. I have held up my hand to the Bar as thou hast done. Goldsb. 2. part 172. Thou deservest to be hanged. Hobb. pl. 185. Yelverton. Rep. 90. Goldsb. and Brownl. 11. Hee doth trade with Pirates. Bulstr. 1. 216. Hee is a very Varlet, and seeketh to suppress his Brothers will. Hee makes shew of Religion, hee is a very Hypocrite, Popham. Rep. 148. That hee keeps such Dogs about him, that mens Cattel about him cannot go in peace, that his Cattel are in every mans ground, and the like. Bulstr. 1.

Thou deservest
hanging.
Varlet.
Hypocrite.

40. Dyer. 18. So neither will it lye for mee for this, My Master hath put mee away, because I would not be a Papist, for hee will keep no servants but Papists. Croo. 1. last publishr. 308. for this is a trivial charge that hath no weight in it.

CHAP. XVII.

Of other words that have another import in them.

There are yet other actionable words, that do not bring a man into the danger of the losse of his life, liberty, or member, or other corporal punishment; but they are such as may bring him in danger of suffering in his Name, or Estate, or both. Some of these may be such as have relation to an infectious disease, which hee is said to have. Some of them are such as may hinder him in a present preferment, that hee might otherwise have. Some of them charge him with deceit, and cheating. Some of them may reflect upon him in relation to his office, or profession. And some of them in relation to his Trade, and way of getting of his living. For that which doth concern words relating to an infectious disease, take these Cases, That if a man be charged or reported to have any such great infectious disease, as for which hee ought to separate himself, or to be separated by the Law, from the society of men, and this be not true that is reported of him, hee may have his remedy for this wrong by this Action. It is held therefore that this Action will lye for the words in the Cases hereafter following, that is to say.

Sect. 1.

Words about
an infectious
disease.

It seems it lyes for this, Thou art a Bankrupt Knave, and a Pocky Knave, let them bear witness that stand by, and I will prove it. Croo. 1. part last publishr 99. But it must be for the first, and not for the last words, and that it will not lye for the words, Pocky Knave.

Pocky Knave.

This Action will lye for saying of another, That hee hath the French Pox. But not for this, Hee hath had the French Pox. Stiles Rep. 64. Noys Rep. 157.

Sect. 2.
French-Pox.

And yet it is adjudged to lye for this, of an Inne-keeper, A. had the French-Pox, and hath set it in the house [Innuendo the Plaintiffs house] and W. S. [Innuendo the Plaintiff] and his Wife have it, and all you, and that the husband alone may sue, Stiles Rep. 112.

Inne-keeper.

So it is said it will lye for this, Thou wast to the Wells to be cured of the Pox. Stiles Rep. 219.

Plague.

So for this, Thou art a Bastard getting Rogue, and hast a Bastard at Oxford, and art a Pocky Rogue, and for ought I know thou hast sild my bed full of the French Pox, and no such Pocky Rogue shall lye with mee. Stiles Rep. 283.

So for this, Hee hath caught the French-Pox and carryed them home to his wife. Hobb. Rep. 219. 290. Brownl. and Goldsb. 11.

So for this, Thou art an arrant Whore, and hadst the French-Pox. Owens Rep. 34. So for this, Mrs. Miller is a Whore, and hath had the Pox, and hath holes one may turn ones finger in them, Mrs. King the Apothecary gave her a drink for it, and therefore take heed how you drink with her. Croo. 2. 430. 144.

So for this, A. B. is laid with the Pox, or the Pox doth haunt him twice a year. Croo. 2. 144. Coe. 4. 17. and Ludfains Case M. 2. Jac. Per Williams and Fenner Justices.

So for this, Thou art a Pocky Whore, and the Pox hath eat out the bottome of thy belly, that thy guts are ready to fall out. Mich. 7. Jac. Cb. B.

B. Miles Case, Trin. 15. Jac. B. R. Millards Case.

So for this, Thou art a Pocky Knave, get thee home to thy Pocky Wife, her nose is eaten with the Pox. Croo. 1. part 1st publisht 878.

So for this, Thou art burnt, and hast the Pox. Croo. 1. last publisht 2.

So for this, Thou art rotted with the Pox, Croo. 1. part last publisht 648.

Inne-keepers.
Vicuallers.

And such kinde of words are then most dangerous, and out of question Actionable when they are spoken of an Inne-keeper, Vintner, Tabler, Ale house-keeper, or the like persons, whose life, and livelihood both depend upon their society with men; and therefore it is dangerous to say, that the Pox, or the Plague, or any such great and infectious disease is in such a common house, as Inne, Alehouse, or the like, when it is not so, for if thereby his Guests forbear to come to him, or he suffer any other damage, he may have this Action, but otherwise not. Coe. 4. 17.

And therefore to say to a man going to such a house, Go not thither, for the Plague hath lately been there, is Actionable. Hetleys Rep. 70.

So to say of a woman Inholder, Shee is a Pocky unwholsome Woman, doth wear a Skarfe about her neck to hide her Blanches there: it is a Pocky household, is thought to be Actionable. Mich. 9. Jac. Ludmans Case.

So it is held that this Action will lye for this, Hee is infected with the French-Pox. *So for this*, Thou hast the Great Pox. 21 Jac. B. R.

Thou art a
Leaper.

So it is said, this Action will lye for this, Thou art not worthy to come into any honest mans company, thou art a Leaperous Knave, and a Leaper. Coe. 4. 17. *So for this*, Thou art a Leaper. Trin. 4. Jac. B. R. Taylor and Perkins Case. Croo. 2. 144.

Averment.
Sec. 3.

And for all these words in the precedent Cases, it seems this Action will lye; And that (as some say) without any Averment of special losse sustained by them; Sed Quere of this. But these kinde of slanderous words also are liable to all or some of the general Rules before named. And therefore they may for the incertainty, doubtfulness, or other matter in the words be rendred unactionable.

It hath therefore been adjudged or resolved not to lye for the words in the Cases hereafter following, viz. for this, Thou art a scurvy pocky Whore, unless thereby hee have some special losse, by way of Trade, or by way of Marriage. Croo. 2. 498.

For for this, Hang him, hee is full of the Pox, I marvel that you will eat or drink with him. Coe. 4. 17.

For for this, J. S. hath the Pox. Coe. 4. 15. 17. Hobb. Rep. 196.

For for this, Hee hath had the French-Pox, or Plague, for hee may be well again. Noys Rep. 151.

For for this, Thou art a pocky Whore. 44. and 45. Eliz. and M. 7. Jac. Co. B.

For for this, Thou hast lyen in Fullers Tubb. 37. Eliz. Chappel and Burrows Case. Albeit this Averment be added, that none do lye there but such as have the French-Pox. M. 44. 45. Eliz. Boddin and Jones Case.

For for this, Hee hath been in Fullers Tubb (meaning a Chirurgions Tubb, wherein none were but such as had the Pox) I will not say of the Pox, but hee lay in the Tubb that time that Langhams wife was laid of the Pox, and his hair falls from his head, and hee is a pilled and a Rascal-knave, and a Villain, no Christian, and thinks there is neither Heaven nor Hell. Goldsb. 135. pl. 34. Croo. 2. 144.

For for this, Thou art Matcombes Hackney, thou art a theeving and a pocky Whore. [Innuendo, that he had the French-Pox, and I will prove thee a pocky Whore. Croo. 2. 514. Godb. 278.]

For for this, Thou art a scurvy, pocky Whore, and a Pickpocket.

For will it lye for saying of a man, Hee hath the Falling-sickness. *Hill.* Falling-sick-
4. Jac. B. R. unlesse it may disable him in his Profession, as a Lawyer, or nels.
the like. *Hill.* 4. Jac. B. R.

It is adjudged (as it is said) not to lye for this, to advise a mans friend
not to keep company with J. S. because hee is full of the French-pox, be-
cause there is no malice in this. *James and Rudleys Case.* 40. 41. *Eliz.*
Co. B.

For will an Innuendo enforce any of these words beyond their native *Innuendo:*
sense, to make them actionable, that in themselves are not so. *Co. 4.* 17.

And yet in some of these Cases, if any special damage come to the party
by the words spoken, there haply they may be actionable, albeit they be not
so in themselves. And in other Cases albeit there be damage, yet may not
the words be actionable. *Croo.* 2. 499.

CHAP. XVIII.

Of words that hinder ones Preferment.

There are other words, that do, or may hinder a Preferment that a
man, or woman, may be in a possibility, and likelihood to have. And
this falls out especially in one of these Cases, where a man is in likelihood
to have a wife, or a woman a husband, or one that is, or may be an heir to
an Ancestour, and in that Right, to have Land from him, or a Minister is
in possibility and likelihood to have a Parsonage by presentation, or one is
in a likelihood to be chosen to an office, or one is in likelihood to be pre-
ferred to a special service, and by some scandalous words spoken by ano-
ther against him to his disparagement hee is prevented of, and put besides
it; in such a Case, and for this Injury the Law gives him this remedy.

And therefore it is held, that this Action will lye for the words in the
Cases hereafter following; That is to say, where a woman is like to have
a husband, or a man is like to have a wife; and one say of him, or her, hee,
or shee had a Bastard, or lay with J. S. or J. S. had the use of her body, or
the like, and hee or shee lose the Match thereby; this Action will lye for
him, or her that is so disappointed. *Hill.* 4. Jac. B. R. *Dame Morrisons*
Case. *Hobb. Rep.* 106. 236. 350. *Croo.* 1. 110. 111. 195. 134. *Croo.* 2.
163.

So if one say of a man, Thou art a Whoremaster, for thou hast lyen
with Browns wife, and hadst to do with her against a Chair. If by this he
lose a preferment by a wife. *Bulstr.* 2. part 90. So to say of a Widower,
being about a wife, that hee had lien with such a woman, and others car-
naliter cognovit, and that by this hee lost such a match. *Croo.* 1. 297.

So for this, Hath that Bastard A. B. caused you to be arrested? is this
all the spight the Bastard can do you? if by reason hereof hee lose a match
hee was about. *Croo.* 2. 422.

It will lye for these words, A. hath had a childe, for shee was convey-
ed to B. and there shee laid her great belly, it is as true that she hath had a
childe, as that you sit there; For shee was sent away with childe, and it
shee had not a childe, shee hath made it away. *Croo.* 1. part 639.

If one be Heir to his Father, or Uncle, that hath an Estate of Land,
or Goods, which in likelihood hee may bestow upon him; or if Land be given
to his Grandfather, and the Heirs of his body, and hee hath children, the
Father and others that may be Heirs to the Entail, though in the second
or third degree, and the Land being at sale, hee is offered somewhat for his
possibility;

Sect. 2.

For a hindrance
in Marriage.
Sect. 2.

For an Heir, to
hinder him of
Land.

possibility; and after one shall say of him, Hee is a Bastard, and by this means hee loseth it; hee may have this Action, and not aver any special loss. Croo. 1. 337. Coe. 4. 13. 14. Coe. 10. 130. Owens Rep. 32. Yet see Popham. 187.

For a Divine to hinder him of a Parsonage.

If a Divine be to be presented to a Benefice, and one say of him, Hee is a Heretick, or a Bastard, or Excommunicate; if thereby the Patron refuse to present him, and hee lose his preferment, this is actionable. Coe. 4. 16. 17.

For an heir to hinder him of Land.

If one be Heir to his Father, Brother, or other Ancestour, who intendeth to settle his Land upon him; And another shall say of him, Hee is a Bastard, and thereupon the Father, Brother, or Ancestour give away the Land from him, this is actionable. Hughes Rep. 451. Bullstr. 2. part 276. 277. Croo. 2. 213. And this Action, some say, it hath been adjudged will lye, albeit the party have no special losse by the words. N. B. Entries 28. Trin. 25. Eliz. B. R. Godb. Rep. 519. Croo. 1. 337. Coe. 10. 130. Owens Rep. 32.

For an Officer to hinder him of an office.

If some say of a Lawyer that stands for a Town-Clerks place, or any other place of preferment, Hee is an ignorant man, and unfit for the place, and thereby hee loseth this place; this Action will lye. March. Rep. pl. 217. Sandersons Case. 17. Car. B. R.

For a Servant, to hinder him of a service.

And so by the like reason, if any common servant be like to have a service, and by some slanderous speeches hee loseth it. Agreed. M. 15. Car. B. R.

So it lyeeth for this, Hee is not worthy to bear office in such a place; for he keeps a Bawdy-house in London; if by this hee lose the place he stands for. Bullstr. 1. part 138.

It is said, that this Action will not lye for saying of another, hee is base born. And yet that perhaps it may lye for saying of another, Hee is an Alien, if he have any special damage by it. Godb. Rep. 327. 328.

Hindrance of Marriage.

This Action will lye, for saying of a Maid, or a Widow that hath a Suitors, I know her well enough, shee did dwell in Cheapside, a Grocer did get her with child; if by this report the Suitors fall off, and shee lose the match. Anne Davis Case. Coe. 4. 16. And there it was resolved, that if hee had charged her with bare Incontinency, that this had been actionable, if shee had lost her Suitors by it. And for this said in such a Case, A. hath reported that hee had the use of her body at his pleasure, ubi re vera, A. did not report it, and if upon this the Suitors fall off, the Action will lye. Dame Morrisons Case. Hill. 4. Jac. B. R. Croo. 2. 103. Jenk. Cent. 8. Case 7.

For a Servant that is hindred of his service. Couzening.

So for this, (as it seems) to say of a woman about Marriage, that shee is mad, if she lose her Marriage by it. Bendloes Rep. 155.

So this Action will lye for these words spoken of a servant and Bayliff, to J. S. who doth much trust him; and thereby hee had his livelihood. He is a couzening Knave; and hath couzened his Master [Innuendo the said J. S.] of a bushel of Corn. Croo. 1. 345.

Seet. 3.

So for this, spoken to a Deputy Clerk of one B; a Register, who trusted him much, and the Deputy Clerk got his living by him, hee is a base couzening Knave; hee is a Cheater, and hath couzened his Master, Innuendo the said B. Croo. 1. 406.

Avowment.

So for this, said of a Shoemakers servant, that lives by the Trade under him, Hee will cut his Master out of doors. But then hee must aver, that by those words in that place is understood, hee will undo him. Bullstr. 2. part 146.

Hindrance of Marriage.

So this Action will lye for these words spoken of a Widower, who was like to have had a good match, Hee is a Chalking fellow, and getteth his living

living by Deceit, and used himself violently to his former wife, and denied her necessaries, and is a needy fellow, and his conditions are wicked, and for his Religion, hee is a Brownist, &c. If by this hee lose his Hatch. But there it was agreed, that without an Averment of some special losse, the Action will not lye in this Case. Croo. Rep. 1. 110. 195. 234. March. Rep. pl. 2.

So for this spoken of a Maid that hath many Suitors, That A. Reading is with childe, and did take Physick to kill her childe, and that by this shee lost her Suitors. Hetleys Rep. 18.

So for this, Southold hath been in bed with Dorchesters wife; if by this Southold lose his Hatch hee is about. Croo. 1. 195.

So for this, Shee is a Whore, and her children [Innuendo, the children which shee had by B. her late Husband] are Frambishes Bastards, Innuendo Nicholas Frambith; if by this shee lose her Marriage. Croo. Rep. 235. And so for any such like words spoken, by reason of which a man or woman doth lose his or her preferment in Marriage. Stiles Regist. 7. Co. 4. 16.

But this Action will not lye, for saying of a man that is a Suitor to a Widow, Thou didst couzen J. S. of her mony, in procuring false witnesses to couzen her; albeit hee lose the Widow by the words spoken. Owens Rep. 47.

And for the words in the fore-mentioned Cases this Action will lye, with Averment of damage where it is necessary, as in most (if not in all) Cases it is. Co. 4. 13. Croo. 1. 13. 100. Bullstr. 2. part 270. 277. March. Rep. 93. But all this kinde of Action of the Case for such words as these, are to be subject to the general Rules of the other actionable words; for if the words be doubtful, uncertain, or the like, they may hereby become unactionable. See more for this, chap. 14. ch. 21, ch. 22. And in some of the other chapters.

CHAP. XIX.

Of words importing a charge of Deceit and Couzening.

There are other Slanders, and Slanders in other Cases than these, which are before named; some of them import something of fraud and couzening, for which this Action is given; It is therefore held, that this Action will lye for the words in the Cases hereafter following; That is to say, for saying, Thou Captain Greenfield hast received mony of the King to buy new Saddles, and hast couzened the King, and bought old Saddles for the Troopers. Pasche. 17. Car. B. R. Sir Richard Greenfields Case. March. Rep. pl. 135. So to charge an Officer, or Travelsman with couzening is dangerous; and therefore it is held actionable, to say of an Innkeeper, There is no man comes to thy house, but thou dost couzen him. Hetleys Rep. 123.

Sect. 1.

About Couzening and Deceit. Of a Captain;

Of a Tradesman.

And yet it is said to be adjudged not to lye, for saying of a Butchers wife, that doth use to sell meat in her Husbands absence, Shee is a couzening woman, and hath couzened one of her neighbours of four pound, and I will prove it. Huttons Rep. 14.

To say of a Brasier, Thou hast couzened mee of a Pan, is actionable. Stiles Rep. 364.

It lieth also for one that hath the over-sight of a Gentlemans Farm, and sells his Corn, for these words, Thou art a couzening Knave, and thou hast couzened mee in selling false measures in my Barley, and the Country

Of a Bayliff, or Servant.

try is bound to curie thee for selling with false measures, and I will prove it; and thou hast changed my Barley which I bought of thee. Brownl. Rep. 1. part 4. Hobb. Rep. pl. 93.

So for this, said of a Servant and Bayliff to J. S. who doth much trust him, by which hee gets his living, thou art a cozening knave and hast cozened thy Master of a Bushel of corn. Croo. 1. 345.

So for this, said of a deputy Clark to one B. a Register, who trusted him much, and by which hee got his living, Hee is a base cozening knave, hee is a chearer, and hath cozened his Master A. B. Croo. 1. 406.

Of an Officer
of the State.

So for this, You have Cozened the State of two thousand pound, and I will prove it; for you have received twenty five thousand pounds profit of the Office, and not compounded for it, and have soisted in words in the order of your composition. Sules Rep. 436.

Of the Lord of
a Mannor.

So (as it is thought) for this, said of a Lord of a Mannor, Thou art a cozening knave, and keepest cozening courts, to cozen men of their fines. 4. Jac. B. R.

So for saying of a Goldsmith, I will prove thee a cozenor, for selling mee a Saphyr for a Diamond. Brownl. 2. part 100 Kirch. 173.

Of an Officer
in London.

It hath lain for this, spoken in London, Thou art forsworn in the Carpenters-Hall, and didst rob the Hall, and deceive the company of twenty pound. Croo. Rep. 1. last publisht 787.

Of an eminent
person.

So this Action will lye for a charge of cozening, imposed upon an eminent person; as to say of a Gentleman of the Privy Chamber of the King, That hee is a cozenor, and liveth by cozening. Croo. 2. part 427.

Averment.

But in all, of most of these Cases to make such words as these Actionable, there must bee an Averment of some special damage to the Plaintiff by the words: and in all Cases, if the truth bee so, it is best so to set it forth in the Declaration.

Cozenor.

But it is held, that this Action will not lye for the words in the Cases hereafter following; that is to say, it will not lye for calling of a common person, cozenor, cozening knave, cheating knave, cheater, of the like. Finches Law 186. Bulstr. 1. 138. March. Rep. pl. 135.

Cheater.
Officer.

And yet perhaps to speak so of an eminent person, or of an officer in reference to his office, it may be Actionable. Croo. 1. 345. Croo. 2. 427. Godb. 284.

Eminent per-
son.

It will not lye (as it is said) for this said of a man that is a suiter to a Widow, Thou didst cozen J. S. of her money in procuring false witnesses to cozen her. Albeit hee lose the Widow by these words. Owens Rep. 47.

For for this, said of an ordinary Gentlewoman, Thou art a cozenor and livest by cozening. Croo. 2. part 427. Croo. 4. 16.

For for this, Thou hast cozened J. S. in buying Saddles for him. Godb. Rep. 284. pasche. 27. Car. B. R.

For for this, Thou hast cozened mee and my two kinsmen, and art a false knave. 26. Eliz. Kerby and Wallers Case Godb. Rep. 284.

For for this, said of a Mayor, Hee hath cozened all his brethren, &c. See in March. Rep. pl. 135. B. R. Mayor of Tibbortons Case.

For for this, Thou wert a Suiter to a woman in Southwark, and didst cozen her of her goods, and procuredst certain false witnesses to bee forged. Croo. 1. last publisht 99.

Jugling.

For for this, Thou hast used Jugling with mee. Croo. 1. part last publisht 178.

Señ. 2.

For for this, Thy credit hath been called in question, and a Jewry being to passe upon it, thou soistedst a Jewry early in the morning, and thy lands thou hast gotten by lewd practises. Croo. 1. part last publisht 348.

For

Not for this, Mr. Crook came unto Cornwel with a blew coat on his back, and hath now gotten together a great quantity of Wealth, by trading with Pirates, cozening in the sale of Pilchers, and by extortion. *Bulstrode. 1. part 216.* Cozening in sale of Fish.

Not for this, He is a cozening knave, and cozened a poor man of one hundred pound, and all the Georges are cozening knaves. *Huttons Rep. 14.* *Not for this*, Hee is a cozening knave, and hath cozened mee of forty pound. *Huttons Rep. 14.* Incertainy.

Not for this, Hee is a false knave, and keeps a false debt book, for hee chargeth mee with the receipt of one peece of Velvet, which is false. *Huttons Rep. 14.* In a false debt book.

Not for this, Thou art a pilfering Merchant, and hast pilfered away my goods from my wife and children. *Huttons Rep. 14. Owens Rep. 56.*

Not for this, spoken of a man that is no tradesman, A. is a cozening knave, and so I have proved him before the Lord Mayor, for selling of a Sapphire for a Diamond. *Huttons Rep. 13.* *Not for this*, Thou art a cozening knave, and hast cozened mee of five hundred pound. *Huttons Rep. 13.* *Not for this*, Thou art a cozening knave and shewedst forth a forged Deed. *Bulstrode. 1. part 132.* In selling a Sapphire for a Diamond.
By shewing a false Deed.
Cozened a Town.

Not for this, Thou hast cozened the Town of B. of so much money, albe it hee were an Officer and to account. *Bulstrode. 2. 228.* *Not for this*, Hee hath cozened the Earl of H. of as much as hee, Innuendo the Plaintiff, is worth. *Bulstrode. 1. part 162, 163.*

Not for this, said of a Merchant, Thou art an arrant knave, for thou hast cozened all Coventry. *Bulstrode. 1. part 162, 163.* Of a Merchant.

Not for this, spoken of a Merchant, a Gentleman of the Kings Privy Chamber, or whosoever else hee hee, Hee is a cozening knave, and lives by cozening. *Godb. Rep. 407. Goldsb. 3. 4, 5.*

Not for this, You bought land when you cozened the Town in your Accounts. *Bulstrode. 2. 228.* Cozening of a Town.

Not for this, Thou art a varler, and hast suppressed thy Brothers will to deceive others of Legacies. *Trin. 17. Jac. B. R. Godfreys Case.* In the suppressing of a Will.

Not for this, Thou hast cozened mee and all my kindred. *18. Eliz. B. R.*

Not for this, Hee hath cozened all the Town of Coventry. *Not for this*, Hee is a very bad fellow, for hee made A. drunk in the night, and cozened him of one thousand marks. *Goldsb. 125. pl. 12.* *Not for this*, Thou getst thy living by cozening. *Croo. 2. 427.* Incertainy.

Not for this, Hee is a cozening knave, for that hee hath sold mee a chain of Copper, for a chain of Gold, and that hee is a cozening knave upon Record. But if hee be a Goldsmith, and got his living by buying and selling of Chains and such wares, there perhaps it may lye. *Croo. 3. 171. Croo. 1. last publisht 171.* Deceit in trade

See more in Chap. 18. Chap. 21. Chap. 22.

For all these last Cases of Unactionable words, this is also to be added; that if it bee so that the party of whom they are spoken; sustain any special damage by them, hee may perhaps have an Action of the Case upon them; but then hee must be sure in his Declaration to Aver it. See March. *Averment.*

This also is to be known herein; that The Slanderous words of this kinde, are also liable to the general Rules of other Slanderous words, that is, they must be false, malicious, certain, and the like, or they will not be Actionable.

See more in Chap. 18. and 19. and in other Chapters.

CHAP. XX.

Of scandalous words that relate to men in their Offices,
Professions, and places of Trust.

Sect. 1.

There are other scandalous words that reflect upon men in their Offices, Professions, and places of Trust; and these are either such as charge them with corruption and dishonesty, or with ignorance and unskilfulness therein; and for this, it may go for a Rule, as to such Persons, generally that for any words that shall import a charge of unskilfulness, or dishonesty and corruption, in, and about their Offices, this Action will lye.

Of a Bishop.

It is therefore agreed, that this Action will lye for a Bishop against him that shall say of him, Hee is a Papist, or Recusant; or that hee hath received a pardon from the Pope, or the like. Brownl. and Goldsb. 12. and 2. part 166. March. Rep. pl. 191.

Recusant.
Papist.Of a Judge or
Justice of Peace.

This Action will lye also for a Judge, Justice of Peace, or such like Officer, for the words in the Cases hereafter following spoken of him viz. That hee is a corrupt Judge; or hee is a corrupt Justice of Peace; or hee is a corrupt Officer; or hee is a corrupt Man; if it be spoken with reference to his Office. Co. 4. 14. 16. 19.

For matter of
corruption.

So for this, Hee gave a corrupt sentence in such a cause. Popham. Rep. 35. Popham. 177. Hobb. Rep. 35.

So for this, Hee doth not administer true Justice. Croo. 1. part last published. 358. So for this, He dealeth corruptly.

So for this, Hee is a false Judge, or hee is a false Justice of Peace, or hee taketh bribes. Co. 4. 16. Broo. 112.

So for this, Hee is a lewd Justice of Peace. Croo. 1. part last published. 158.

Fellon.
Barretor.
Champertor.
Maintainer of
Suits.
Extortioner.

So for saying of such a one, Hee is a Felon, or hee is a common Barretor; or hee is a common Champertor, or hee is a common Maintainer of Suits; or hee is an Extortioner, or hee hath committed Extortion, or the like. Hobb. Rep. pl. 145. 188. Goldsb. and Brownl. 11. 30. Aff. 19. Popham. Rep. 35. Kitch. 173.

So for this, Hee is a Basket Justice, a partial Justice, I will give him five pound a year for his gifts about Justice matters; And yet it is said in this Case, that none of the words but partial Justice are actionable. Croo. 1. 90.

So for this, Hee took forty shillings for a bribe. Yelvertons Rep. 143.

So for this, You have extorted twenty shillings above your due fees. Stanleys Case. Pasche. 14. Jac. Co. 10.

So for saying of such a Judge [or Justice] Hee covereth and hideth Felonies, and is not worthy to be a Judge [or Justice of Peace.

So for this, you cover and hide felonies. Dyer. 72. Stuckleys Case. Pasche. 7. Jac. B. R. Co. 4. 16.

So for this, There is a Nest of Theeves in Dale, and Sir John Bridges is the maintainer of them. Pophams Rep. 180.

So for this, You, out of malice and spleene have perverted Justice, and have wrested the Law many times, to serve your own turn. And in this Case there was no Averment made in the Action, that the words were spoken with reference to his office. Beaumont versus. Sir Henry Hastings. Mich. 7. Jac. B. R. Bulstr. 1. part 96. Croo. 2. 241.

Averment.

So for this, Hee is but a half-cared Justice, hee will hear but on the one side. Croo. 1. 162.

So for this, Hee can hear but with one ear. Chomleys Case. Hetley. Rep. 123.

So for this, You are a sweet Judge [or Justice of Peace] you sent your Warrant for J. S. to be brought before you for suspicion of felony; and afterwards sent J. D. to give him warning thereof, that hee might absent himself. Burton versus Tokin. Croo. 2. 143. 413.

So for saying these words, I have been often with him for Justice, but never could get any at his hand, but Injustice. Croo. 1. 9.

So for this, You are an Ambodexter, and you take money on both sides. M. 2. Jac. B. R. Dawtries Case.

So for this, Sir William Buttons men have stolen sheep, and hee spoke to mee not to prosecute them. Popham. Rep. 180.

So for this, Hee hath been the cause of the over-throw of a hundred men by false and subtil means. In Brownl. 2. part 299. March. Rep. 8.

So for this, A. being arrested as accessory of felony, Mr. Stafford [Innuendo the Plaintiff] knowing thereof, discharged him by agreement of three pound, to which Mr. Stafford was privy, whereof thirty shillings was to be paid to him, and was paid to his man by his appointment. Trin. 36. Eliz. B. R. Croo. 1. part last publisht. 536.

Sec. 2.

So for this, Hee hath received money of a Theef, that was apprehended and brought before him for the stealing of certain sheep, to let him escape, and to keep him from the Gaol. Pasche. 17. Eliz. B. R. Brownl. 1. part 11. Cottons Case.

So for this, said of a Judge that had given his sentence in a Cause between the Defendant and another, That the same sentence given by the Plaintiff Innuendo, &c. was corruptly given. Croo. 1. last. publisht. 305.

So for this, Mr. Gilbert hath done mee wrong, in returning the Recognisance of Podger in twenty pound where it was taken in ten pound, and the Sureties in ten pound a peece. Pasche. 4. Jac. Gilberts Case. B. R.

So for this, Thou hast forged a Recognisance, taken before Fisher and others. Croo. 1. part last publisht. 883.

So for this, said, where, upon Articles upon Oath before the Judge or Justice against mee, I say, By your means I had wrong at the Sessions, for you caused Hickman to swear against mee that which was not true [Innuendo the said Oath. Croo. 2. 308, Yelvertons Rep. 221.

So for this, Mr. H. did put in of his own head these words into an examination taken by him, viz. J. S. did steal twenty sheep of such a mans. And for saying this further of the Justice, Hee is a debauched man, and not fit to be a Justice of Peace. But it was said, the Action did lye for the first, and not for the last words. Stiles Rep. 22.

So it seems for this, where one is arraigned, and acquitted of a felony, and the prosecutor shall say, if A. and B. had done Justice, C. had been hanged for robbing mee. And that for this, A. B. and C. may have this Action.

For Matter of Ignorance.

This Action will lye, for saying of a Judge, Justice of Peace, or such like Officer, He hath no skill in his office. Hill. 16. B. R.

For other Matters.

But this Action will not lye for such a person, where a discourse is about him, as to his body, and health, and therein, one of them shall say, Hee is a corrupt man. Nor where the discourse is about his Estate, and therein one of them shall say, Hee is a Bankrupt; Nor where a discourse is about his Usury, or his fraud, in an executorship, and therein one of them shall say, Hee is a corrupt man, or hee is a false man, or the like. And therefore in these and such like Cases, where the Plaintiff shall set forth but part of the

Words of Qualification.

words of the conference, the Defendant must set forth the occasion of the words by the rest of the conference, Croo. 4. 14. But if the words bee spoken without any such references, as in the Case before, they will bee Actionable, for they shall bee so intended, and taken in the worst part. Hob. Rep. pl. 351.

For will this Action lye for this, You do openly maintain and countenance the worst people against Gods Laws and the Queens. Croo. 1. part last publisht, 197.

Hee keeps a
Baudy house.

This Action also will lye for such an Officer for this, Hee is not worthy to bee in such an Office, for hee keeps a common Baudy-house in London, Simpsons Case, Bulstr. 1. part 138.

So for this, said to such a one, You are no true Subject, Or for this said to hisman, Thou servest a Master that is no true Subject Croo. 2. 202.

So for this, Hee and his Son sought to kill mee, and his Son threw a Dagger at mee, and run mee through the hose twice, and all this by the procurement of the Justice of peace, Croo. 2. 56. Yelvertons Rep. 57.

Incertainty

But this Action will not lye for this, Hee is a false Justice, vel his similia, Broo. Action of the Case, 112.

And it seems it will not lye for this, I heard it spoken that Mr. Read was one that was at Burrels Roberie, and that four of them went to his house the next morning; ubi re vera, the Defendant never heard any such words. Sed quere, for the words have a found of Actionable words. See Croo. 1. last publisht, 644. 645.

Señ. 3.

This Action will not lye for a Judge, or Justice of peace, or such like Officer, for this. Hee is a base Rascal, Villain, and by unjust means doth most villanously take other mens rights from them, and keeps a company of theeves and traitors to do mitchief, and gives them nothing but base blew Liveries, and this all the Country reports. And other good hee doth not. And yet two of the Judges were for the action in this Case. Croo. 2. part 58. Dyer 75. 158.

For for this, Hee hath delivered untruths upon his Oath, in his answer in Chancery, at the suit of I. S. Croo. 1. part last publisht, 374.

For for this, Hee hath but one Mannor, and hee hath gotten it by swearing and forswearing, Croo. 4. 15. For for this, Hee hath gotten all that hee hath by swearing and forswearing, New Book of entries, 4. 22.

Couzening.

For for this, For my ground in D. hee seeks my life, Croo. 4. 15.

For for this, You have Couzened the Earl of Hertford, of as much as I am worth, Bulstr. 1. part, 163.

For for this, Hee is a Reculant and a Simonist, &c. Croo. 2. 484.

Blood-sucker.

For for this, Hee is a Blood-sucker, and sucketh blood, Croo. 1. last publisht, 306. 433.

Couzening.

For for this, said in a conference about him, and his Tenants of his Manor, When your Tenant took his Land, you couzened him of his fine, and dealt corruptly, and I will make you appear where you dare not shew your face, for your base dealing, Trin. 4. Jac.

Usurer.

For for this, Hee is an Usurer, For for this, Hee hath not dealt honestly about a Will. Croo. 4. 16. New Book of Entries, 22.

Inclination or
Affection.

For (as it seems) for this, If any man will give him a Bribe, as a Sheep, or a couple of Capons, hee will take them; And yet this seems to bee a foul Charge, Croo. 1. part last publisht, 306. 433.

But in these kinds of Actionable words these things must bee observed.

1 That

1 That the Plaintiff must bee sure to set forth, that hee was such a Judge, Justice, or Officer at the time when the words were spoken of him, or the words will not bear Action.

2 That hee is not bound to set forth, that hee had any special losse by the words.

3 That words of this nature are subject to the Rules laid down in other Cases before, for other actionable words, they must be certain, false, malicious, and not liable to qualification, &c. For if the Case be so that they be true, or incertain, or not malicious, or subject to qualification by the occasion of speaking, or other words spoken at the same time, if so it be, they may by this bee unactionable. Croo. 1. part 97. 162. Bullstr. 1. part. 36. Yelvertons Rep. 153. 159.

This Action will lye for a Serjeant or Barrister at Law, that doth practise in the Law with words in the Cases hereafter following, spoken of him with reference to his Profession, viz. Hee hath undone many. Osberton and Stanleys Case Trin. 37. Eliz. Cam. Scaver.

So for this (as some would have it) Go not to him, for hee will deceive you, Hertleys Rep. 70. yet see the contrary by March. pl. 217. Brownl. 1. part. 11.

So for this, Hee hath been the cause of the overthrow of 100. men, by his subtil means, Yelverton Rep. 143. March 8.

So for this, You are a dishonest man in your profession, Trin. 37. Eliz.

So for this, you are a paultrie Lawyer, and use to play on both hands, Croo. 2. 267. So for this, Hee is a paultry fellow, for hee doth deal on both sides, and deceive them that put him in trust. Noys Rep. 11.

So for this, Hee hath done falsly with mee being his Clyent, and hath joyned with mine Adversary, Stiles Rep. 231. 283.

So for this, Hee is a Bribing knave, and hath twenty pound of J. S. to couzen mee. Brownl. and Golsb. 6.

So for this, Go you to him to bee of your counsel, hee will deceive you, hee was of counsel with mee, and revealed the secrets of my Cause. Trin. 13. Eliz. B. R. Coe, Lib. Entries. 22.

So for this alone, Hee being of my Council, revealed the secrets of my Cause.

So for this, Hee revealed the secrets of his Clyants Cause.

So for this, You did disclose my Council to mine Adversary. Snags Case. Trin. 13. Eliz. B. R. So for this, Thou didst disclose my Council, See Croo. 1. part last publisht. 358.

So for this, Thou didst deliver my evidence to mine adversary, see there for it.

So for this, Hee giveth bad Counsel.

So for this, You are a couzening Knave, and shewed a counterfeit or forged Deed knowing it to bee so, Mich. 39. 40. Eliz.

So for this, You are a bribing Knave, or a Corrupted Knave, or you are a Corrupt man, or you are a common Barritor, or you are a common Champertor, or you are a common maintainer of Suits. Hobb. Rep. pl. 17. 177. 188. 145. Brownl. and Golsb. 11.

So this Action will lye for such a man for this, Hee a Barrister, he is a Barretor and no Barrister, he was put from the Barre, &c. and durst not shew himself there, he hath as much wit as a Daw. Coe. 13. 71. Godb. Rep. 441. Herley Rep. 71. Noys Rep. 98.

So for this, Thou hast no more Law than a Monkey; or, thou hast

For a Serjeant, or a Barrister at Law.

Sect. 4.

For his dishonesty.

Bribing Knave.

Couzening Knave.

Barretor Champertor. Maintainer of Suits.

For his unskilfulness.

no more Law than a Jackanapes, or thou hast no more Law than a Jack-daw. Herleys Rep. 71. Owens Rep. 17. Godb. Rep. 441. *For this*, Hee hath as much Law as a Monkey, &c. March. Rep. pl. 93. Goldsb. 126. pl. 17. Croo. 13. 71. Mich. 36. 37. Eliz. Palmers Case B.R. Herleys Rep. 71.

So for this, you a Counsellor, a fool, an asse, a hang-man, a Counsellor at Law, a fool in the profession. Popham Rep. 207. *So for this*, hee is a dunce, and will get little by the Law. Croo. 1. part 277. *So for this*, he is an Ignorant man in the Law. *So for this*, hee hath no skill in the Law. *So for this*, he is the simplest Lawyer towards the Law. 39. 40. Eliz. B.R. *So for this*, he is no Lawyer.

So for this, hee a counsellor, hee is a concealer of the Law. Coxes Case. Trin. 2. Jac. B.R.

And yet it is held, the Action will not lye for these words, he is no Schollar, or thou wast never any Schollar, or thou art an ignorant man in general, without reference to his office. *For this*, he is an Asse. Cawdreys Case.

And yet it is said by some to have been adjudged actionable to say of such a man, he is an ignorant man. Trin. 17. Car. 1. B.R. Sanderfons Case. But without question it will lye for saying of such a man, hee is an ignorant man in the Law.

But it will not lye for this, to say, he hath no more Law than J. S. and J. S. is no Lawyer.

For other
Cases.

But it was said by Tanfield Judge, it may lye for saying of such a man, Hee hath the falling Sicknes.

So it may lye for saying, hee giveth bad council. Croo. 1. part last published 403.

Judge.

It will not lye for saying of a Lawyer, and Judge of a Corporation Court, Hee is a Puritan knave, a Precise knave, a Bribing knave, and I will make him answer for what hee hath done. Popham Rep. 139.

For this, You have lost your Clyents cause. Herleys Rep. 70.

For this, you have seud a counterfeite, [or a forged] Deed. Mic. 39. 40. Eliz.

For this, Hee mis-enters the name of his Clyent in his book. Croo. 1. part last published 403.

For this, Hee is a Drunkard, or a Drunken fellow.

For this, Thou hast nothing, but what thou hast gotten by swearing, and forswearing. New book of entries 22.

Seft. 5.

For this, He is a Bankrupt. March. Rep. 8.

But these things must bee added for the understanding of all these Cases also :

1 That hee that brings an Action for such words as these, must set forth, that hee was a Lawyer at the time of the speaking of the words.

2 That in this Case, where the words are in themselves Actionable, there need not bee any Averment of any special losse by the speaking of them; but if in truth the Case bee so, it is best so to set it forth.

3 That for some of the words herein, set forth to bee Unactionable, if the party of whom they are spoken, have any special damage by them, there perhaps an Action may lye for some of these words.

4 That such kinde of words as these, are to be regulated by the same general Rules of other Slanderous words, that is, they must bee false, malicious, certain, and not lyeable to qualification by other words spoken with them, and the like, or they will not bee Actionable.

Of a Sheriff.
Extortioner.

It is said that this Action will lye for saying of a Sheriff, Hee is an Extortioner, or that hee hath by colour of his office extorted twenty shillings above his due Fees.

But it will not lye for saying, to the servant of the present Sheriff, of the last years Sheriff, Your Master must not look to have such huddling and shuffling

shuffling of matters this year, as hee had the last year. Croo. 1. part last published 849.

For against an under Sheriff for this. Thou art a cozening fellow, as any Cozening in the country, the last time thou wert under Sheriff, as now thou art: thou didst serve an Execution for a neighbour of mine, and didst keep the money in thy hands. Croo. 1. part last published 854.

This Action will lye also for a Preacher, a Parson of a Church, for Of a Preacher, these words said of him, Hee hath made a Seditious Sermon, and moved or a Parson of the people to Sedition this day. Coe. 4. 19. Pasche. 24. Eliz. B. R. Phillips Sedition. versus Badby.

So it is said it will lye for him, for these words, Hee hath had two children by A. the wife of B. and I will cause him to bee deprived for it. Par- Incontinency. rers Case 38. 39. Eliz. Noys Rep. 64. Croo 1. part last published 502.

And yet it is held, that it will not lye for this, said of him, Hee is an Adulterer. For for this, Hee is a Whore-master. For for this, Hee is a Drunkard. For for this, Hee is a common Swearer. For for this, Hee is a Preacher of false Doctrine. Stiles Rep. 49. Swearer. Preach false Doctrine.

And yet in Hill. 1650. B. R. in the Case of Drake: the Court did incline to give an Action for these words, for saying of a Preacher, a Pastor of Arts, and an incumbent of a spiritual living, Thou hast Preached lyes in the Pulpit. Stiles Rep. 363. 364.

And if a Preacher have any special damage by any such like words spoken against him, in that Case doubtlesse hee may have this Action for his remedy.

To say of a Schol-master, Put not your Son to him, for hee will come away as very a dunce as hee went, this Action will lye. Herleys Rep. 71. Of a School-Master.

This Action will lye also for a Clerk of Assizes, for saying of him, Hee hath taken a Bribe of fourty shillings. Yelvertons Rep. 142. 143. Of a Clarke of Assises.

This Action will lye for saying of a Cozoner, Hee is an Extortioner, and hath, colore officii, Extorted forty shillings. Bribing. Of a Coroner. Extortioner.

But to say of such a one, Hee is a cozening knave, and hath cozened J. S. of his land, is not Actionable. See March. 2. part of Slanders 4. Cozener.

This Action will lye for a Town-Clerk, that is an Attorneys, and a Judge in the Mayors Court, for saying of him, Hee took fourty shillings for a Bribe. Godb. Rep. pl. 211. Of a Town-Judge. Bribing.

But not for this, Thou hast made many false certificates, for the Mayor and Burgessees in that court, and the more thou stirrest, the more it will stink. For that no speech was about his office, when the words were spoken, nor did it appear that the making of the Certificates did belong to his office, nor was it averred that hee knew them to bee false, Huttons Rep. 123. Averment.

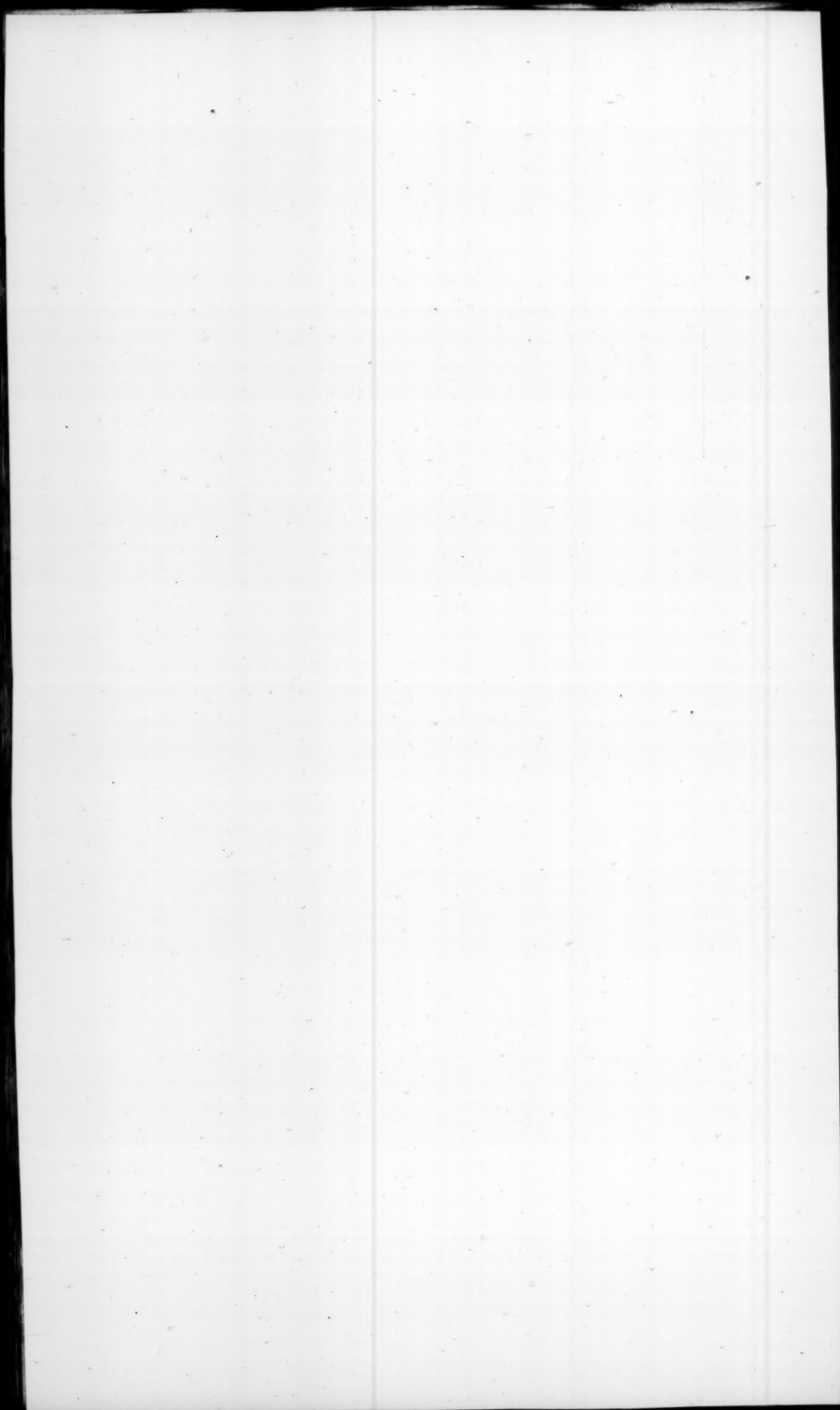
For for this, Hee is a common maintainer of Suits, and a Plague of God consume him; I hope to see his body rot upon the earth, like the carcass of a Dog, and I will have him thrown over the Bar the next Term, and I will give a Beech to hang him. Brownl. and Goldsb. 15. Maintainer of Suits.

It will lye for any Deputy of such officer as the King of Arms, that hath a Patent for his office, and power by Commission to make a Deputy to inquire of matters about his office, when hee hath done it; to say of his Deputy: Hee came and sate by force of a forged Commission, and hee is a Scrivener and no Herald. Croo. 1. last published 329. Of the King of Arms. Forgery.

This Action would have lye for a receiver of the Court of Wards, upon these words, Mr. Deceiver hath deceived and cozened the King, and dealt falsely with him. Sir Miles Fleerwoods Case. Of a Receiver or auditor of the Court of Wards.

So to have said of an Auditor, Hee was a frauditor, and had deceived and cozened the King. Hobb. Rep. 375. So to have said this, You have received money for the Ingrossing of Forgeries, and I will prove that to bee Cozening.

- cozening; and you are a cozener and live by cozening. Winches. Rep. 40.
- Of a Steward of a Court.** This Action will lye for saying to a Steward of a Court, That he hath been the cause of the overthrow of a hundred men by his subtil means. Yelvertons Rep. 142. 143. So for this, Hee hath taken a bribe of forty shillings. Yelvertons Rep. 142.
- Taken Bribes.** But it will not lye for saying of a Steward to a great man of his Courts, and one that hath been much trusted by him, Hee is a notorious lyer and couzener, and hath deceived the Parishioners of H. of five hundred pound, and I will teach him to couzen mee of my house. Croo. 2. 619.
- Couzener.** This Action will lye, for saying of a Steward of a Court Læte, and Court Baron, Mr. Carve hath put a presentment into the Jewries Verdict against mee of three shillings four pence, for suing of Peter West forth of the Court, without the consent of the Jewry. M. 4. Jac. B. R. Carves Case.
- Forgery.** But this Action will not lye for an Arbitrator, chosen by consent to end a matter of difference between men, That hee is a corrupt man, or that hee dealt corruptly in the making of such an award, or the like, by Williams Justice. But such words spoken to a Judge or Justice of Peace, will give an Action of an Action.
- Of an Arbitrator.** This Action will lye for an Attorney, or Clerk of the Court, or such like Officer, for saying of him at large, or in relation to his office, the words in the Cases hereafter following (that is to say) For this, Hee is a bribing Knave. Hobb. Rep. pl. 17. Croo. 4. 16.
- Of an Attorney.** So for this, Hee hath taken a bribe of forty shillings. Yelverton Rep. 143. 412. Hobb. pl. 17. Golsdb. 6.
- For corruption and dishonesty.** So for this, Hee is a bribing Knave, and hath taken twenty pound of A, to couzen mee.
- Bribing.** So for this, His credit is fallen, hee dealeth on both sides. Noys Rep. 10. Mich. 41. 42. Eliz. Co. B. Kings Case.
- Sc&. 7.** So for this, Hee is an Ambodexter. Godb. Rep. 214. Finches Law. 186.
- So for this, Hee hath taken money on both sides in Suits.
- So for this, Hee takes money on both hands in Suits.
- So for this, Hee took money on both sides in a Cause between him and mee. M. 2. Jac. Dawtreys Case. B. R.
- So for this, Hee is a good Attorney, but hee will play on both sides. Brownl. 1. part Croo. 1. part 166.
- So for this, Hee is a paultry fellow, his credit doth begin to crack, hee doth deal on both sides, and deceive many that trust him. But for the last words only, hee doth deal, &c. is the Action grounded. Croo. 1. part last publisht. 914. Noys Rep. 11.
- So for this, in the Mouth, Hee is a Daffidowndilly, which there is an Ambodexter. Hetleys Rep. 123.
- So for this, Take heed and follow him well, for hee will make you throw your purse over your bosome. Winches. Rep. 40.
- So for this, Hee is a base Rascal, and I say, I will make him to lose his ears, and I will teach him, or any Lawyer of them all, to have a Writ served on mee. Leys Rep. 170. 176.
- So for this, Hee hath been the cause of the overthrow of a hundred men, by his subtil means. Yelvertons Rep. 142. 143.
- So for this, Hee is a false practiser. Pasche. 17. Jac. Moores Case. So (as some say) for this, Hee is a false Attorney. So for this, Hee is a couzening Attorney. Hetleys Rep. 140. 141.
- So for this, You are a dishonest man in your profession. Noys Rep. 11. 7.



So for this, Thou didst disclose thy Clients Counsel to his Adversary. Trin. 17. Jac. Anderlons Case.

So for this, Hee revealed the secrets of my Cause. So for this, Hee did deliver my Evidence to my Adversary. So for this, Hee did disclose my Counsel. Croo. 1. part last publisht. 158.

So for this, You are well known to be a corrupt man, and to deal corruptly. But in this case the words must have reference to his Calling, for if they were occasioned by speech about him as a Usurer, or about an Executorship, and his ill dealing therein, no Action will lye for such words. Croo. 4. 14. Finches Law. 186. Godb. 214. Croo. 1. part 196.

It is said, it will not lye for this, Hee is a forger of Writings, and de- serveth to lose his ears. For for this, Hee is a forger of Writings, by which hee hath couzened fatherless children. Winch. Rep. 90. 91. Que- re of these Cases. For they import a very foul charge. But it is said, it will lye for this, Thou hast forged the Will of J. S. Huttons Rep. 29. And yet doubted whether it will lye for this, Thou hast forged Writings, for which thou shouldst lose thy ears. Bulstr. 3. part 265. Forgery.

So for this, Hee hath forged a Sheriffs Warrant, shewing what it was. Brownl. Rep. 4.

But it will not lye for this, He made false Writings. Winch. Rep. 40.

For for this, You were cooped up for forging of Writs.

For for this, Hee gets his living by false Writs. Croo. 1. part 195. For this Quere. But this Action will lye for this: If a Suit be between A. and B. and B. say to A. Your Attorney is a bribing Knave, and hath twenty pound of you to couzen mee. Mich. 1. Jac. B. R. Yardlies Case. Couzening.

So for this, Thou didst couzen J. S. of his fee, and I will sue thee for it in the Starr-Chamber. Brownl. 1. part 2. 3. 6. 7. part 2. 253.

So for this, Hee is a couzener, and couzens his Clients in the Sheriffs Court at London; where hee is an Attorney, and was for that cause discharged of that Court. Croo. 1. 190. 192.

So for this, Thou art a false couzening Knave, and hast gotten all that thou hast by couzenage, and thou hast couzened all those that have dealt with thee. Croo. 2. 586.

So for this, Hee is a base Rogue, and cheating Knave, and doth maintain himself, his wife and children by cheating. Croo. 1. 171.

So for this, Hee is a couzener, and hath couzened mee of twenty shillings. Herleys Rep. 123.

So for this, Thou art a couzener, and hast delivered couzening Bills. Herleys Rep. 123.

But it will not lye, for saying, He is a Cheater. Herleys Rep. 139. Croo. 1. 139. Cheater.

It will lye also for this, Thou art a couzening Knave, and gettest thy living by extortion, and didst couzen one Pidgeon in a Bill of costs of ten pound. But for the last words only, and not for the first words. Croo. 1. part last publisht. 601. 602. Sect. 2.

It will not lye for this, Spoken to one that is speaking of retaining him, Go not to him, for hee will couzen you. Pasche. 18. Jac. Ratcleifs Case. Croo. 1. 29.

For for this, will it lye (as it is said) Thou art a false couzening Knave, and hast couzened my two Kinsmen of their Land, and deservest the Pillory. 26. Eliz. B. R. Words of qualification.

For for this, Hee couzened J. S. out of his Land. For for this, Thou hast couzened J. S. of his fee, and I will sue thee for it in the Starr-Chamber. Brownl. 1. part 3. 5. 6. 16. 2. part. 253.

And it is said, it hath been doubted whether it will lye for this, Hee is a base, cheating, couzening Knave, and hath cheated mee as never man was cheated. Croo. 1. 112. 367. But these words seem to others clearly to be actionable.

Champerlor.
Barretor.
Extortioner.
Maintainer of
Suits.

So it will lye also for this, Hee is a Champertor. Hobb. Rep. 117. 359. pl. 145. 351. Croo. 4. 16. Brownl. Rep. 17. Winchef. Rep. 481.

So for this, Hee is a common Champertor, and I will have him turned over the Barr. Hobb. Rep. 183.

So for this, Hee is an Extortioner. Hill. 40. Eliz. B. R.

So for this, Hee is a common Barretor. Brownl. and Goldsb. 11. Winchel. Rep. 166. Huttons Rep. 104. Croo. 1. 139. 406. Hobb. Rep. pl. 188. But it will not lye for saying of him, He is a common Maintainer of Suits. Hobb. Rep. pl. 145. Winch. Rep. 40.

Forgery.

So it will lye for saying of him, Hee is a forging Knave. Brownl. 1. part. 16. Hetleys Rep. 140.

So also it will lye for this, Hee is a suborning Knave, or hee is a suborned Knave. So for this, Hee is a perjured Knave. Stiles Rep. 17. Paines Case.

Subornation of
Perjury.

So for this, Hee is an extorting Knave, and did suborn one to be sworn before the Lord Chief Justice. 20. Jac.

So for this, Take heed of him, for hee is the falsest Knave in England, and hee will cut your throat. Hetleys Rep. 140.

Knave.

And so it will lye for calling of him Knave, only, as hath been adjudged after a Writ of Error brought. Nichols Case, Seikes Regist. 8. 17. Trin. 12. Car. 1. B. R. Yardlies Case 18. Eliz. 2. B. R. And therefore a fortiori it must lye for saying, hee is a couzening, or a forging Knave, of the like. Yet see the whole Court. Co. B. against it. Croo. 1. last publish. 601.

So for this, He is a common stirrer up of Suits, and a disturber of the Peace, and so a mover of unjust Actions. Hetleys Rep. 140.

So for this, Thou art a Knave, and stirrest up Suits between parties to their undoing, and 'tis pity such persons go unchanged. Croo. 1. 166.

So for this, said to a Client of the Attorney, I marvel you will employ such a Knave as Nichols is, you will have but disgrace and discredit by employment of him, for he is a proclaimed Knave in the Market. Croo. 1. part 331. 332.

So for this, He is a base Rascal, and I will make him to lose his ears. Leys. Rep. 70.

Sect. 9.
Cheater.
Viper.
Villain.
Judas.
Brabler.
Swaggerer.

But it will not lye for saying this, of an Attorney, or such like Officer, He is a Cheater, a Judas, a Destroyer, a Viper, a Villain, a common Brabler, a common Breaker of the Peace, and a Swaggerer, all together, or asunder. But if an actionable word be joyned with them, these will aggravate the slander, and so the damages. Hetleys Rep. 140. 139. 143. Huttons Rep. 104. Winchef. Rep. 166.

So for this, I think thou art no Attorney, but an Attorneys Clerk, and if thou be, I shall have thee pickt over the Bar the next Term, and thy ears nailed to the Pillory. Hobb. Rep. pl. 159.

Usurer.

So will it lye for this, Thou art a Usurer; So for this, Thou hast played the Knave with mee about a Will. Croo. 4. 16.

Recusant.

So for this, He is a Recusant. Hetleys Rep. 140. 141.

So for this, Thou art a Sarging Jack, and a Couzener, and wouldst have couzened mee. Hetleys Rep. 140.

Forgery.
Incertaincy.

So for this, I have matter enough against him, for M. H. hath found Forgery against him, and I can prove it against him. Hobb. Rep. 189. 395.

So for this, spoken to an Attorneys Son, My Father was not cast over the

the Barre as thy father was. *Knighelies Case. Trin. 41. Eliz. B. R. Hobb. pl. 145.*

Not for this, Thou gettest thy living by extortion. *Not for this,* Thou gettest thy living by swearing and forswearing. *Croo. 1. last published. 603.* Extortion,

Not for this, I will have him thrown over the Barre the next term. *Hobb. Rep. 1. 59. Bore and Barnabies Case.*

Not for this, He was, or will be picked over the Barre. And yet it is said to *be for this,* He was picked over the Barre.

This Action will *be also for* an Attorney, or such like kind of Officer, *For lack of skill,* for these words, viz. Thou art the simplest Attorney towards the Law. *Mich. 39. 40. Eliz. B. R. Martins Case.*

So for this, He is the foolishlest Attorney towards the Law, and if he doth not overthrow your Cause I will give you my ears; he is a Fool, and an Ass, and so I will prove him. *Croo. 1. part last published, 589. Goldsb Rep. 1. 28. Hobb. Rep. pl. 117.*

So for this, Thou hast no skill in thy office. But it will not *be for* saying of him, That he hath no skill in Husbandry, or the like.

But it is said, that it hath been doubted whether an Action will *be for* these words, said of an Attorney. He is a Knave, and a couzening Knave, and did take fees on both hands in a Suit between me and Greene, and by knavery suffered me to be condemned at Ipswich at Greens Suit willfully, being Attorney for me. See *March of Slanders, 1 part 78.* But this Case seems to others to be out of doubt Actionable.

So it is said by some, that it will not *be for* these words, Thou art the dishonestest Attorney in England, and if any bee more dishonest than thou, he deserves to be hanged, unlesse the words be spoken with reference to his office, or practice, and unlesse there bee an Averment made, that there is a dishonest Attorney in England. *Croo. 1. 29.* Averment.

And this also is here to be added :

1 That where the words in the Cases before named be Actionable, there will be no need of any special averment of losse.

2 That where the words be not Actionable in themselves, yet if the party, of whom they are spoken have any special losse by them, they may perhaps be Actionable. Averment.

3 These kinds of slanderous words are to bee subject to the Rules laid down in other Cases for other Actionable words, they must be certain, false, malicious, and not subject to qualification, &c. For if the words bee true, or not malicious, nor subject to qualification by other words, they may not be Actionable.

4 The Attorney (it seems) is to shew in his Suit, that hee was an Attorney at the time of the speaking of the words.

This Action will *be for* saying of a Constable, Hee is a concealer of Felons. *Pridhams Case, Pasche. 7. Jac. B. R.* Of a Constable Sect. 10.

So for this, Thou hidest [or coverest] Felonies. *So for this,* Thou favourest Felons. *Stuckleys Case, Pasche. 7. Jac. B. R. and Bondmans Case.*

But it is doubted whether it will *be for* this, said of such an Officer, Thou art a bribing Knave, and hast couzened the Parish of W. in Rates of thirty pound. *Herleys Rep. 36.* Couzening

This Action will *be for* over-seers of the poore of a Parish, for these words said of them, viz. of any such Officer, He hath couzened the poore of their bread. *March. Rep. pl. 135. 9 Jac. B. R.* but some deny this Case, to be Law, but the words have a verbal sound. Of Over-seers of the poore.

Couzening.

So for this spoken in relation to his office, That he is a cheating Knave, and hath couzened the Parish of forty pound, Stiles Rep. 388.

So it is said to lye for this, Thou dost make Loanes, Taxes, or Assesments thy self, and makest five quarters in the year, and dost cheat and couzen the Parish. Stiles Rep. 394.

Some say it will lye against such an Officer for these words, He hath Couzened the poor of their money, others deny it, but certainly they have the import of a foule aspersion in them. 9 Jac. B. R.

It will not lye for saying of such a one, Hee is a notorious Lye and Couzener, and hath deceived the Parishioners of H. of five hundred pound, and I will teach him to deceive me of my house. Croo. 2. 619.

Of Church-wardens.

It is said this Action will lye for saying of the Churchwardens of a Parish, such like words as these, of one of them, He hath couzened the poor of their Bread; or he hath couzened the poor of their Money. But others oppose this. 9 Jac. B. R.

It seemes it will lye for this, spoken of such an Officer in relation to his office, That he is a cheating Knave, and hath couzened the Parish of forty pound. Stiles Rep. 388. 394.

But it will not lye for saying of such an Officer, He is a notorious Lye, and Couzener, and hath deceived the Parishioners of A. of five hundred pound, and I will teach him to couzen me of my house. Croo. 2. 619.

This Action will lye for a Churchwarden, for this said of him that had made his presentment at a Visitation, Thou hast perjuredly presented me at the Visitation before I. S. official. Croo. 2. 80, 81, 120.

For a Scrivener.
Rogue.
Couzener.
Cut-purse.
Of a Measurer,
or Surveyor of
Land.

It will not lye for these words spoken of a Scrivener, Thou art a Rogue, and a Cony-catching Rogue, a couzening Rogue, a Cut-purse. Croo. 2. 536.

For this, He made false writings. Croo. 2. 536.

Cheater.

This Action will lye for a Mathematical Measurer, or Surveyor of Land, a Geometrician, or a Mathematician, for any words spoken of him to scandalize him in his Art, Faculty, or Profession, as to say of him, He hath no skill in his Trade, or that he is a cheater in his Trade, or that he is a couzener in his Trade, or that he is a cheating Knave, and that I can prove. But this must be for a man that is learned, and doth his work by his Art, for if the words be spoken of one that doth measure by the poll only, it seems they are not Actionable. Goldsb. Rep. 278. Hill 16. Jac. B. R. Londons Case. Croo. 2. 504. It will lye also for a Surveyor or measurer of Land, that gets his living by it, for these words said of him, Thou art a couzening and shifting Knave, and a cheating knave. Croo. 2. 504.

Of a Commis-
sioner.
Sect. 11.

This Action will lye for saying of a Commissioner, that hath a Commission to examine Witnesses, and to hear and determine a matter in Chancery, That he is a corrupt man, or that he hath taken bribes of R. K. and for saying after, King hath set Sir George Moore on horse-back with bribes, whereby to defraud Equity, Justice, and good conscience; and Popham took no difference to bee, where the Commission is to one, and where to many, and where the Commissioners bee named by the Court, and where by the Parties, or either of them, Sir George Moore. and Follers Case. So likewise for Commissioners that have a Commission to examine witnesses out of the Exchequer.

Of the Mayor
of a Town.

And it is adjudged to lye for this said of a Commissioner, that had a Commission out of the Exchequer to examine Witnesses, That he had returned as the Depositions of Witnesses into the Exchequer, the Examination of divers who were never sworn. Croo. 1. part last publish. 623.

This Action will not lye for the Mayor of a Town, for saying of him, That he hath couzened all the Town. 8 Car. B. R. Mayor of Tiversons Case.

This

This Action will lye for a publick Weigher in a Market, Fair, or Town, that is a publick Officer there, for these words, That he hath done corruptly, or that hee hath taken bribes to make false Weights, or the like, by Williams Justice.

Of a publick Weigher in a Town.

This Action will not lye, for saying of a Bayliff, That hee had made no true Accompt. Bullstr. 2. 218.

Of a Bayliff.

This Action will lye, for saying of A. B. Clerk to the Company of Merchant-Taylor in London, these words, Before A. B. came to the service of the Merchant-Tailors, hee dwelt in Shrewsbury, and set the Town together by the ears, and so long as hee was there, they were never in quiet, but afterwards they lived quietly, and he being Clerk to the Merchant-Tailors, was of consent and counsel with W. G. to deliver the Books of the Corporation which hee had in his keeping, to the intent that thereby some of the Lands of the same Corporation might be found concealed. Croc. 1. part last publishr. 358.

Of a Clerk of a Company.

But if one shall say of another (that is an Officer) without any precedent Communication about his Office, Place, Trust, or Profession. That hee is a couzening and cheating Knave; or that hee hath couzened and cheated any man thus, and thus; this is so general and incertain, that no Action will lye for it. March. of Slanders. 1. part 72. 73.

Couzening, Incertainty.

Out of all which Cases touching Officers, and such like persons employed as in the Cases before, That hee that will charge a man for words spoken against another, for any thing tending to defame him in his office or place of Trust, these things must be in the Case.

1 The words must be spoken of him generally, and then will be by construction of Law intensible, as spoken to, or of him in relation to it, or they must be spoken with expresse reference to his office, or place, and employment; for if they be spoken occasionally, about another subject, they may not be actionable.

2 The Plaintiff that sues, must set forth that hee was such an Officer at the time of the words spoken, or otherwise regularly the Action will not lye; for it will not be sufficient to say, that hee had been such an Officer, &c. But it is not needful for him to say, that the hearers of the words did at that time know him to be such an Officer.

3 The words must be subject to the general Rules of all other actionable words; they must be certain, false, malicious, &c. And yet if they fail to be actionable by any of these defects, if they occasion any special damage to him, of whom they are spoken; they may be actionable; albeit they be not so of themselves.

4 It is said, that in Actions for Slander, of this nature, that there must be a special Averment of some damage by the words, and that otherwise they will not be actionable: But it seems, the Law, and common practice is otherwise; and it shall be presumed to be a losse, and therefore need not to be averred. Howbeit, it is doubtlesse the sure and safe way (if the Case will bear it) to alledge a particular damage, and it is usual so to do, for increase of damages. March. 59.

5 That the same actionable words, when spoken of a man in Office and Trust, &c. spoken of another man out of this Office, or place of Trust, or of a man in Office, without any reference to it, may not be actionable. Hobb. Rep. pl. 35. 93. 104. 351. Croc. 1. part 97. Bullstr. 1. part 36.

CHAP. XXI.

Of Scandalous Words that relate to men in their Trade,
and Way of Living.

Sec. 1.

There are other scandalous words, that have reference to men in their way of Trade, and that whereby they get their livelihood. And this lyeth especially in three things.

1 When any thing shall be said of them to disparage their credit, as to their estate, as when they shall be said to be Bankrupts, or the like.

2 When any thing is said against their honesty, and Justice in their Trading, as when they shall be said to cheat in things, or in weight, or measure in their buying, and selling.

3 When any thing shall be said to disparage their skill in their Trade. But it may be in some other particulars, and wherein forber it is, that any man is dammified by such talk, hee must have his remedy by this Action.

1 To disparage
the estate.

It is therefore agreed, that this Action will lye, for saying of a Merchant, Mercer, Grocer, Shoemaker, Dyer, Weaver, one that doth buy and sell Wool by Retail, a Gaffer, one that doth trade for Lead in any County, and gets a living by it, a Corn-Baker, or Baker in London, a Country Farmer, that doth buy and sell, and live by it, a Stillener in London, or to say of any other Tradesman that liveth by buying and selling at present, or did so very lately, and doth so usually. To say of any such kind of man, That he is a Bankrupt. Noy's Rep. 158. Hutton's Rep. 49. Bulstr. 1. part 267. Croo. 4. 19. Sciles Rep. 75. Croo. 2. part last publisht. 268.

Bankrupt.

Or, Hee is a Bankrupt Knave. Bulstr. 2. part 210. Dyer 72. Croo. 1. part last publisht. 911. Bulstr. 1. part 110. And yet some have doubted of this. Hutton. Rep. 13. 14.

Or, He is a Bankrupt Rogue. Godb. Rep. 152. Croo. 1. 21. Huttons Rep. 52.

Or, hee is a Bankrupt Scrub. Sciles Rep. 75.

Or, hee is a Bankrupt Slave. Croo. 2. 58. Popham. 184. Hutton, 13. 14. March. of Slanders. 2. part 2.

Or, hee will be a Bankrupt within two daies. Dyer. 72. Croo. 4. 19.

And yet it is said, it will not lye for these words spoken to a Tradesman, Thou art a Bankrupt Knave, or a Bankrupt Rogue, where they have relation to something else besides his Trade. Sciles Rep. 410.

So it is said, that this Action will lye for this, Hee is a Bankruptly Knave, and cannot be trusted in London for a Groat. Godb. Rep. 151. But for calling of one Bankruptly Knave alone, this is doubted. Croo. 2. 345. 378.

So it will lye for this, I will prove that hee hath been Bankrupt, and hath agreed with his Creditors for a Noble in the pound, and I will prove it. Hill. 3. Jac. B. R. Edmonds Case.

So for this, I will prove thee a Bankrupt.

So for this, I shall prove thee a Bankrupt by such a time. Croo. 1. 193.

So for this, hee is gone, and dares not shew himself for Debt, and hee is a Bankrupt for ought that I know. Sciles Rep. 130.

So for this, Hee is a Bankrupt, and fled beyond the Sea for money. Trin. 9. Jac. B. R. Trulocks Case.

So for this, Hee is not worth a Groat, hee is a hundred pound worse than nought. Croo. 1. 193. 231. Huttons Rep. 125. Bulstr. 2. part 267. Croo. 2. 378. yet this is doubted by some. See afterwards.

So for this. Hee came a broken Merchant from Dale.

But it will not lye for saying. Hee was a poor man within this seven years, for hee may be sufficient now, notwithstanding this. Croo. 1. 123.

So it will lye for this. Hee is a Bankrupt, and not able to pay his Debts, but will run the Country. Huttons Rep. 46. Sect. 2.

So for this. He is a Bankrupt, and I will drive him out of the Country.

So for this. What art thou? a Bankrupt, and wast a Bankrupt. Croo. 1. part last publisht. 273.

So for this. Thou dost owe more than thou art worth, and art not able to pay thy Debts. Stiles Rep. 213.

So for this said of a Merchant, or the like. Hee is broken. Hill. 17. Jac. B. R. Johnsons Case.

So for this. Hee is a poor fellow, and not able to pay eleven shillings in the pound, and not able to pay his debts. Stiles Rep. 273.

So for this. Thou art a base beggerly Rogue; and not able to pay thy debts. Stiles Rep. 217.

So to say of such a one as doth merchandize for Lead in any County, and get his living by it, hee is a Bankrupt, and beggerly Gentleman. Bullstr. 1. part 41. Huttons Rep. 40.

So for this, said to a Corn-Baker and Baker in London. Thou art a broken fellow, and hast cheated mee of two hundred pound. Stiles Rep. 429.

So for this, said of a Farmer in the Country, that doth buy and sell, and get his living by it. You are a begger and bankruptly fellow, and if every one had his own, you are not worth a groat; with an Aberment, that thereupon his Landlord turned him out of his bargain, or hee had any special losse.

So for this, said of a Whillener in London. Thou art in a breaking and decayed condition, and I will prove it; and if you question mee, I will prove it to your disgrace. Stiles Rep. 425.

So for this, said of a Merchant, that is to have a Trial at Guildhall, Hee is broken [Innuendo hee is not able to pay for the wares hee bought] and I warrant you hee dares not be at the Trial at Guildhall. Croo. 2. 562.

So for this, said of a Merchant. Thou art a Rogue, and a beggerly fellow, and I shall prove thee a Bankrupt before the next Term. Croo. 1. 171.

So for this, said of a Grocer. He is a beggerly fellow, and not able to pay his debts. Croo. 1. 339. Croo. 1. last publisht. 643.

And yet it is said, it will not lye for this. Hee is a base broken Rascal, and hath broken twice, and I will make him break the third time. But to say, hee will break the third time, may be more dangerous. Noys Rep. 77. Bendloes Rep. 170.

For will this Action lye for saying of an Attorney, Farmer, or other man that is no Merchant, or other Tradesman, that lives by buying and selling, hee is a Bankrupt. March. 8. Croo. 2. 424. Goldsb. 84. Finches Law. 186. Bullstr. 1. part 40. Jenk. Cent. 7. Case 70. Huttons Rep. 13, 14.

For for this, said of a Merchant, or Tradesman. Trust him not, for hee will be thy undoing. For for this, said of a Tradesman, hee is a beggerly fellow. Croo. 1. 171. For for this, I will sue out a Commission of Bankrupts against J. S. For for this, said to a Well-winner in London, or elsewhere; For of a Tailor, or Fuller, hee is a Bankrupt. Popham. 185.

For for this. Thou art an arrant Knave, for thou hast couzened all Co-Cozening-ventry. Bullstr. 1. part 162. 163. For for this said of a Merchant.

This Action will lye for saying of a Shoemaker, Hee is a Bankrupt, and

hee dis set forth, that hee was a Shoemaker, and did use buying and selling of Leather. Croo. 1. part last publisht. 208.

For this said of a Merchant, Doth hee owe you money? get it quickly, and take heed how you trust him. Croo. 1. part last publisht. 341. Trin. 36. Eliz. Vaspicks Case.

For will it lye (as it is said) for this, said of a Dyer, Thou art not worth a groat; Albeit hee aver, that the speech in the Country where it was spoken, be as much in the sense thereof there, as, thou art a Bankrupt. Pasche. 15. Car. B. R. Axe & Moodes Case. For his credit may be good, albeit hee be worth nothing. And yet if a man have any special damage by such words, with an Averment of it, hee may maintain the Action. Yea, it seems there are some Judgements, that the words themselves, Thou art not worth a groat, are actionable. See before. Croo. 1. 193.

If one be but a Merchants Apprentice, and hee doth Merchandize for another man, and be called Bankrupt; or if one have been a Merchant, and hath given it over, and a man call him Bankrupt; in either of these Cases the Action will not lye. And yet if in the last Case, hee have resumed his Trade again, and then be called so; in this Case the Action will lye. Noys Rep. 33. Bullstr. 1. part 267.

2 To disparage
his honesty.

Seet. 3.

This Action will lye for saying of a Merchant, Mercer, Grocer, or any such like Tradesman, That hee doth buy and sell by false weights and measures; or by false weights, or measures. But to charge another man so, that is no Tradesman, is not actionable. Mich. 15. Car. 1. Co. B. March. Rep. pl. 119. 197. Hobb. Rep. 93. Pasche. 17. Car. 1. Pains Case.

For to say of a Tradesman, That he keepeth false weights and measures in his house; this is not actionable, for perhaps hee doth never use them, nor know of them. March. Rep. pl. 197. Hill. 6. Eliz. Co. B.

Deceit.

And yet to say, Hee keeps false weights and measures, by which he doth couzen the Country, it seems, will be actionable. So it will lye for this, Thou dost keep, and sell by false weights, and in four and twenty shillings bestowing, thy weights were false two ounces, and I will prove it. Brownl. 1. part 4. 5.

So it will lye for this, said of a Merchant, Hee is a cheating Knave, and hath cheated his Father, by returning twenty pound for wares, &c. Croo. 1. 398. Stiles Rep. 388.

And yet it hath been said to be resolved not to lye for a Wheelwright, for these words said to him, Thou art a Couzener, and hast couzened mee of a pair of Wheels. Hetleys Rep. 123.

Couzening.

This Action will lye for saying of a Goldsmith, and one that gets his living by buying and selling of Chains, and the like wares, Thou art a couzening Knave, for thou hast sold mee a Saphyr for a Diamond. Croo. 3. 171. Hill. 32. Eliz. B. R. But it will not lye for saying these words of a Tailor, He is a couzening Knave, for he hath sold mee a Chain for Gold, that is but Copper, and he is a couzening Knave upon Record, and hath been imprisoned for couzening. Croo. 2. 171. March. of Slanders. 2. part 2.

Couzening.

So it will lye for this, for saying of a Farmer, that doth use to sow his Land, and sell the Corn upon it, and by this to maintain his family, he keeps a false bushel, by which he doth couzen and cheat the poor, and that by this he lost his custome, &c. Pasche. 17. Car. 1. Co. B. March. Rep. pl. 192.

To say of a Brewer, he maketh and selleth bad Beer, or of a Baker, he selleth naughty Bread, is actionable, if the partie of whom it is said hath any losse by it. Mich. 15. Car. 1. B. R.

So to say of a Brewer, My Mare doth piss as good Beer as hee doth brew; this is said to be actionable, if hee suffer any losse by it. March. 60.

Dykes

Dykes Case. But otherwise not, for the words are insensible and impossible, and therefore not actionable, but by reason of the especial damage. Mich. 15 Car. 1. B. R.

Now will this Action lye for these words, said of a Merchant, Hee is a couzening Knave, March. 8.9. and yet if it be spoken with reference to his trade, it is questionable. Pasche. 15. Car. B. R. Couzening.

Now for this, He came to D. with a blew Coat on his back, but hath now gotten much wealth by trading with Pirats, couzening in the trade of Pilchars, and by extortion. Bullr. 2. part 216.

Now for this, said of an Alderman and Merchant, Hee is a false Knave, and keepeth a false Debt-book, and chargeth me with the receipt of a peece of Veivir, which is false, Croo. 1. part last publishr. 403. Hill 37 Eliz. B. R. Brooks Case.

If I have a Bayliff on my farm, that both buy and sell my Cozn there, and by my service herein he hath his livelihood, and any one shall charge him with any deceit herein, whiles he is in the office and imployment, he may have this Action, but not after he is out of the imployment. Hobb. Rep. pl. 9. Winchel. Rep. 40. March Rep. 196. 197. Sect. 4.
Servant to deceive his Master.

This Action will lye for any servant that shall bee by such words charged to couzen or deceive his Master; as to say, A. doth delraud [couzen, or cheat] his Master, and will undoe him. If the servant have any special losse by it. Pasche. 15. Car. 1. B. R. March of Slanders, 1. part 99. Servant.

This Action will lye for saying of an Inne-keeper, No man cometh to his house, but he couzeneth him. Hetleys Rep. 123. Inne-keeper, Alehouse-keepers, &c.

And yet it is said to be adjudged not to lye for these words, spoken of a Butchers Wife, who doth use to sell meat in her Husbands absence. That shee is a couzening Woman, and hath couzened one of her Neighbours of four pound, and I will prove it. Huttons Rep. 14. Couzening.

So for this, said of a Co-partner in Trade, You are a couzening Knave, and did couzen me of one thousand two hundred pound at one time, and that was in making an Accompt in the year one thousand six hundred forty eight. Stiles Rep. 388.

So for this, said of a Brasier, Thou hast couzened me in a Pan, Stiles Rep. 364. Pasche. 7. Jac. B. R. And so by the same reason it seemes it will lye against any man, that shall charge any other Tradesman with couzening another in his Trade.

This Action will not lye for saying of a Merchant, He is a very Varler, and seeks to suppress his brothers will, hee makes a shew of Religion, hee is a very hypocrite. Pophams Rep. 148. Varler.
Hypocrite.

Now for this, Thou art a Cheater, and hast cheated my husband of five hundred pounds. For the words doe not refer to his trade. Croo. 1. 301. Brownl. 1. part 4. 16. Cheater.

Now for saying of any Tradesman in London, Thou art a Cheater, and hast cheated I. S. of five hundred pounds, unlesse it be spoken of, and applied to a cheating in his Trade. Croo. 1. 101.

Now for this said of any Tradesman, He hath deceived me in a reckoning for Wares, and his Debt-book which hee keepeth in his Shop is a false book, and I will make him ashamed of his calling. Brownl. 4. Gold. Rep. 241. Deceit.

Now for saying of a Merchant, He keeps a false Debt-book. Winchel. Rep. 40. Croo. 1. part last publishr. 403. But to say of him, He deceives men by buying and selling, may be actionable. Winchel. Rep. 40.

Now will this Action lye for this, said to a Merchant, Trust him nor, he will be thy undoing. Croo. 1. 171.

For for this, said of such a man, He is a Couzener. Croo. 2. 204.

This Action will lye for this, said of a Trades-man, to one that is about to place his Son with him, Put not your Son to him, for hee will starve him to death. Hetleys Rep. 71.

So for this, said of a Taylor, and free-man of a City, He hath cheated in his Trade. Irelands Case, Trin. 15 Car. 1. B. R. Hetleys Rep. 123.

3 To disparage
the skill.
Sect. 5.

This Action will lye for saying of some Trades-men, They have no skill or understanding in their Trades, as to say of a Taylor, Carpenter, or such like trades-man, He hath no skill in his trade, it seemeth clearly to be actionable. But this said of a Mercer, or some such like Trades-man, that may use his trade by one that hath skill, may not be actionable.

So to say of a Baker, He knoweth not how to bake, or hee doth not make good bread; or of a Brewer, He cannot, or doth not brew good Drink, and the like, this must needs bee Actionable; so to say of such a Trades-man, Hee wants skill, or care about his trade. And yet to say of any such man, He had no skill within this few years, may not bee actionable, for he may have enough at this time. Croo. 1. 231.

4 Or otherwise
to prejudice
him of whom
they are spoken.
Inne-keeper,
&c.
Infectious dis-
ease,
Averment.

If one shall say of an Inne-keeper, Quoting man, or such like man or woman, that keepeth a common house, That hee [or she] hath in his, [or her] house, any great or infectious Disease, as the Plague, Pox, or the like, and thereby he or shee lose their Guests, or suffer any special damage, they may have this Action, otherwise not; and yet it seems the Action is maintainable without Averment of any special losse. Croo. 4. 14. 17. Pophams Rep. 36.

So to say of such a woman, Inne-keeper, or. Shee is a pockey Drab, doth wear a Scarf to hide her blanches in her neck, it is a pockey household; it seems is actionable. Trin. 9. Jac. Ludmans Case. Stiles Rep. 115. Hetleys Rep. 70.

But this Action will not lye for such words spoken of another that is no Inne-keeper, That pockey Drab doth wear a Scarf about her neck to hide her blanches, I will not eat with her for ten pound. And yet if there be speech of the French Pox, and therein the words be spoken, they may be the more dangerous.

Keep a Bawdy-
house.

So it will lye for this, said of such a man, He doth keep a Bawdy-house, Croo. 4. 14. 17. Bullstr. 1. part 138. 27 H. 8. 15.

So to say of an Alehouse-keeping Woman, Hang thee Bawd, thou art worse than a Bawd, thou keepst a house worse than a Bawdy-house, and thou keepst a Whore in thy house to pull out my throat. Hughes Rep. 40.

So to say of an Inne-holder, That he hath buried divers in his Garden, that dyed in his house of the Plague. Regist. orig. 173.

Barrator.

But this Action will not lye, for saying of a Carrier, He is a common Barrator.

Varlet.

For for saying of a Coper, He is a Varlet, and a Knave, and a false knave. Hobb. Rep. pl. 188. Croo. 2. 104. 1. part last publishr. 403.

Branded Rogue

For for this, Thou art a branded Rogue, and a Rogue by the Statute. Croo. 2. 204.

Of a Physicia
or Dhirurgion.

This Action will lye for saying of a Physitian in reference to his profession, He is a Mountebank, a base fellow, and an Emperike. Hughes Rep. 441. Pasche. 12. Car. B. R.

Sect. 6.

So for saying, He hath no learning nor skill in Physick, 7, & 8. Car. B. R. So for this, He is a drunken fellow, a fool, and an asse, and was never a Scholar, nor able to speak like a Scholar, is no Scholar, or hath

no

no learning, in general without referring it to his office; But if the words be spoken with reference to his office, they are the more unquestionably Actionable, Croo. 1. 196. 197. Godb. Rep. 441. So to say, Goe not to such a one for Chyrurgery, for hee hath no skill in Surgery. Herleys Rep. 70.

So it seems to lye for this, spoken of a Chyrurgion, and of one Matthews he lately had in cure, Thou didst kill Mr. Matthews, thou didst kill him, and if he say for lack of skill, then is the Case more clear. Herleys Rep. 69.

But say of him, He hath killed A. (now dead) with Physick, a Pill, and the Vomit was found in his mouth, and Doctor A. and Doctor B. found it; so, and it is true, is not Actionable, albeit it bee averred the Doctors never found it so. Croo. 1. part last publisht. 620. Of a Midwife.

This Action will lye for saying of a Midwife, Many have perished for her want of skill. Croo. 1. part 153.

So for this, Thou art a Witch, and wert the death of the child of I. S. at whose birth thou wert Midwife. Trin. 21. Jac. B. R.

And to all this, wee have said of these last kinde of Slanders, wee must add these things. Sect. 7.

1 That hee that brings an Action for this Slander, he must in his Action brought, set forth himselfe to bee a Merchant, Mercer, Baker, or of some one Trade or other in certain; and it will not bee sufficient for him to say hee was a Tradesman in general, for no other man can have this Action, Sales Rep. 420. 426.

2 That hee must set forth, that hee is a common Tradesman, as a common Baker, or the like, and not a Baker for a time only. Huttons Rep. 49.

3 That hee must set forth, hee was such a Tradesman at the time of the speaking of the words; and yet a Declaration saying that the Plaintiff, fuit Mercator per magnum tempus, not saying hee was so at the time was held good. Croo. 1. part last publisht 273. Bulstr. 1. part 36.

4 That a man may not justifie the calling of another Bankrupt, because hee was once a Bankrupt, unless hee bee a Bankrupt at the time hee calls him so. Croo. 2. 578. Coe. 4. 17. 18.

5 That the words bee spoken with reference to the Trade, or that bee general and relative words to the Trade, that must bee so understood, as Bankrupt, or the like, for being spoken of another thing, they will not bee Actionable.

That in many of the Cases before, for words that are not Actionable, yet if the party of whom they are spoken, have any special losse by them, the words may happily bear an Action.

6 That in Cases of words Actionable, there must bee (as some say) in the Declaration an Averment of some special losse, that the party of whom the words are spoken, hath sustained by them: But it seems the Law, and the Common practise (at least) in some of the Cases, is otherwise, howsoever if the Case will bear it, it is best so to do. March. Rep. 96. Brownl. 1. part 10. 13. 2. part 100. 129. Croo. 1. 100. Averment.

7 That this Action for such kinde of words as these, is to bee subjected to the general Rules of other Actions for Slanderous words, viz. they must bee false, malicious, certain, &c. For if they bee true, or not malicious, or subject to such a Qualification by other words, as they may possibly bee, they will not bee Actionable at all.

CHAP. XXII.

Of an Action of the Case for a Conspiracy.

What it is.
S. ct. 1.

A Conspiracy (strictly taken) is where two or more persons do purposely and maliciously, conspire and labour together falsely, and unjustly, without any ground at all, to indict another for some Treason, Felony, or other offence; and after hee which is so Indicted, is upon that Indictment after a lawful tryal, purged and acquitted; in this Case, and for this wrong, as hee may have other remedy, so hee may have remedy by an Action of the Case, wherein the Plaintiff shall recover damages according to his harm. Co. 9. 56. F. N. B. 114, 115, 116.

The word Conspiracy, and the writ of Conspiracy, is sometimes taken more largely (to wit) for any agreement, or combination between others, to vex and molest mee in any veracious Suit whatsoever; in which Case the Law gives mee a remedy by this Action, to which wee may happily say more hereafter.

Where, and in
what Case this
Action will lye
for a Conspiracy,
or not.
And how.

If two, or more, do falsely, and maliciously, Conspire to indict, or appeale another of any offence against any Law, as Treason, Felony, Barratry, or the like; and after hee that is so indicted is acquitted, this writ lyes for him. Co. 5. 56. F. N. B. 114. Bendloes Rep. 152. Yelvertons Rep. 161. Bullr. 3. part 271. Bendloes Rep. 138.

And this Action is given to the party indicted, as well for the scandal that doth grow to him thereby, as for the trouble which may befall him, by reason of the preferring of the Bill of Indictment against him. Stiles Rep. 10. 11. Croo. 1. part last published 564. 724. 725.

But for the opening of this point; these things are to be known, that in all Cases where this Writ of Conspiracy shall be maintainable, there must be these things in the Case.

1 This lyeth as well upon an Indictment for Treason, as upon an Indictment for Felony; and other matters. Bullr. 2. part 271. 272.

But it will not lye for an Indictment of Trespass. Stiles Rep. 157. 424.

It must be by
two or more
persons.

2 There must be two or more in the Plot, for the Writ of Conspiracy will not lye against one man alone, nor against a man and his wife (who are but one person in Law) unless the Writ say that they Simulcum others did the thing. And hence it is that if the Suit be begun against divers; and all but one of them are discharged of it to all intents, as being acquit by verdict, hereby hee is discharged also. F. N. B. 114. 116. 18. Ed. 1. Broo. Consp. 21. Bendloes 138.

But if the Writ be brought against two, and one of them doth barr the Plaintiff by a Demurre in Law, or one doth appear and plead, and his plea is found against him; in these Cases the other is not discharged but the Plaintiff shall recover, though the other be not attainted: And yet in this Case hee may perhaps refuse to answer without the other; Or if all the Conspirators but one be dead; there the Writ may be had against him alone. F. N. B. 116. 114. 40. Ed. 3. 19. 38. Ed. 3. 3. 35. H. 6. 14. 24. H. 6. 25.

But an Action of the Case in the nature of the writ of Conspiracy will lye against one. Croo. 1. part 173. Bullr. 3. part 271. and 1. part 185. Godb. 76. Croo. 1. part 173.

3 The party that brings this Writ of Conspiracy, must be indicted, arraigned,

raigned, and acquitted, for a purpose, or intent without the Act, (however in some cases it was punishable in the Starre-Chamber) yet it is not punishable by our Law. And therefore this Action will not lye for a Plot, or Preparation, without an execution of it. Non officit conatus, nisi lequatur effectus. *Coo.* 9. 56. *F. N. B.* 114.

4 The proceeding, and prosecution in question, must be voluntary, and not compulsoy. And therefore neither this Action, nor an Action of the Case in general, will lye against a man that doth prosecute another upon an Indictment by constraint, or compulsion in a Court, as where men are obliged to it by their Oath, or Office, as Justices of Peace, or Jurors, sworn to present such offences, or witnesses called to testify their knowledge of such things; or one that doth come into a Court voluntarily, and there discover one that is a Felon indeed; and yet if it be voluntary at the first, and after compulsoy, it may be unlawful and actionable.

Sec. 1.

And yet if one shall come into a Court voluntarily, and discover felonies, and it be true, which hee doth discover, and this be without any malice precedent, no Action will lye for this. So, if one come into a Court, and by the command of all, or one of the Justices, draw, or procure to be drawn an Indictment; or if, being bound to prosecute, hee do so, and cause an Indictment, &c. Or if hee be bound to give in evidence, and hee do so; or hee do give false evidence, this will not make him liable to this Action. 27. *H.* 6. 12. 35. *H.* 6. 14. 27. *H.* 8. 3. *Fitz.* 115. *Leonard Rep.* 107.

For if this Writ should lye against one that comes in, only to swear to the truth of an Indictment, then would no man come in to do it. *Coo.* 4. 14. *Bulstr.* 1. part 185. *Porter and Griffins Case.* *B. R.*

This Action lieth not against a Juror, or witness that comes into a Court to be sworn. *Coo.* 9. 55. And if a Witness, or Juror had conspired out of Court, and the Witness had sworn, or the Juror had given a corrupt verdict, upon a Conspiracy before out of Court, they might have been punished in the Starr-Chamber. *Coo.* 2. 23. 24. And so also of the Judge, or Justice of Peace. But neither Judge, nor Jury, nor Witness, will be liable to this Action, by our Law, in such a Case. *Coo.* 12. 23. 24. 12. *Ed.* 4. 18. 21. *Ed.* 3. 17. 7. *H.* 4. 31. 35. *H.* 6. 14. 20. *H.* 6. 5. *F. N. B.* 115.

And yet, if there be just cause, as that in truth there is a Felony committed, and any man whatsoever, shall complain to a Justice of Peace of it, and thereupon, hee that doth complain, is bound over to prosecute (which is the ordinary course) and thereupon hee doth prefer an Indictment, and prosecute, &c. this is not actionable. *Croo.* 2. 32. 130. 191. *Bulstr.* 1. part 150.

5 The proceeding, and prosecution must be malicious, for an unjust revenge, as well as voluntary. For if one man do prosecute another in this way, upon good ground; as where a Felony is done, and there is some cause of suspicion of that person, more than another, either by the common fame, or otherwise; as where a man is robbed, and the next Village, upon Hue and Cry, doth make pursuit, and take a man whom they have in suspicion, and thereupon the party robbed, doth indict that man, and upon the Indictment, in his Trial he is acquitted. Or a Cozoner, after a murder, sitting super visum corporis, cannot finde out the murder; and then enquiring of the first finders of the body, they present, that J. S. killed him, and thereupon hee is indicted, and acquitted; these proceedings shall not be said to be malicious, nor are they as punishable, by any Action, as in case where it appears he doth begin and prosecute his work maliciously. And whether there be malice, or not in such a prosecution, must be iudged by Circumstances, as his

manner of prosecution, speeches, and the like; and a Jury only must determine it. Bullstr. 2. part 2. 84. Broo. Comp. 4. Croo. 9. 55. Croo. 2. part 191. 194. Bullstr. 2. part 269. Leonard Rep. 107. pl. 146. Bullstr. 1. part 149. Croo. 1. part 95. Croo. 1. part last publishr. 724.

6 It hath been held by some Judges, that it ought not only to be maliciously contrived, but it must be false; and that if the party be guilty of the Crime, whereof hee is accused, and for which hee is prosecuted, that this Writ will not lye. By the two Chief Justices, and Lord Chancelour. Sed Quere, if this may not admit of some exception. Huttons Rep. 73.

If one be robbed, by persons unknown, and one of the Thieves had a white Horse and brown Cloak, and was like to the Plaintiff, and upon this was apprehended and prosecuted; this was held lawful, and that this Action did not lye for it. So where the Daughter complained to the Father, shee was ravished by J. S. but was not so, and thereupon hee did prosecute him; that no Action lay for this. So in like cases where there are good and seeming probabilities a man may prosecute another after this manner, and justifie it, albeit the party accused be innocent, and the thing false.

But if there be no probabilities in the Case, or the Justice, in his examination, finde no cause to binde over, and yet hee proceeds. Bullstr. 1. part 149. 150. 185. Goldb. Rep. 203. Huttons Rep. 73. Bullstr. 3. part 331.

And in this, it is said, that if the Charge and Accusation be true but in part, as where the Writ doth suppose a man to indict him for murder, and it was upon his Arraignment found, that hee did kill the man, but that the killing was per infortunium, or se defendendo, in this case the Writ will not lye. Fitz. Consp. 21. Scamf. lib. 3. cap. 12.

7 The party indicted, or appealed, must be legitimo modo acquietatus, (that is) he must be acquitted upon his Trial by the Petit Jury after an Indictment found by the Grand Jury; or if hee bring an Appeal, be non-suit, or the like. And therefore if the Acquittal be by a general, or particular pardon; or hee is discharged for the insufficiency of the Indictment, and no Judgement be given upon it; or the party is indicted, and an Ignoramus is found upon the Bill; in all these Cases; this Writ of Conspiracy will not lye. Croo. 2. 131. Bendloes Rep. 152. Yelvertons Rep. 161. Brownl. and Goldsb. 10. 9. Ed. 4. 12. F. N. B. 114. Croo. 7. 45. 41. And yet the last of these Cases, upon an Ignoramus found, is doubted of by some, and the contrary said to be twice adjudged. 41. Eliz. B. R. 20. Jac.

And for the general Pardon, hee is to plead it, and the Justices are to allow of it. Brownl. 1. part 9. Bullstr. 1. part 150. 151. Croo. 1. 208. Dyer. 28. 85. Goldsb. 51.

8 The Prosecution must be about some criminal matter, that may bring a scandal upon him; for if it be but a matter of Trespasse only, no Action will lye for this. Stiles Rep. 157.

9 This Action may lye, for procuring one to be indicted, although the party himselfe do it not, for one may exhibit a Bill to the Grand Jury without oath. Stiles Rep.

10 To encourage one that is robbed to cause the suspected Felon to be indicted; and so accompany him to the Assizes, is lawful to do, and will not bring one in danger of this Action. But if when hee shall so do, hee knows there was no Robbery done, it is dangerous. Goldsb. and Brownl. 9.

11 The Indictment must be preferred before the Judge that hath power to take it, or else no Action will lye for it. Croo. 1. part last publishr.

But upon all this, there may seem to arise a Question; If in any Case where

Sect. 3.
Acquittal by
pardon.

where the party prosecuted is guilty of the offence for which he is prosecuted, be there never so much of malice in it. Whether for this, this Action may lye, or not against the Prosecutor?

If the offence about which the Prosecution is, be Treason, or Felony, it should seem no malice shall be said to be in this, to make the Prosecutor liable to Action, if the party be guilty of the offence. But if the offence be only Barretry, or some small matter, and the party be guilty, there may haply be so much of malice in the Prosecution, as to make him liable to this Action. Yet see Buller, 3. part 331. Just. Crooks opinion otherwise in this. Buller, 1. 185.

In all Cases, where the practise, or procurement, being by two, or more, will give cause or ground for a Writ of Conspiracy, there, if the same thing be done by one alone, a general Action of the Case, in the nature of a Writ of Conspiracy, will lye for it; so that if one man only do falsely and maliciously cause another to be indicted for Felony, Barretry, or the like, who is thereupon acquitted, an Action of the Case, in the nature of a Writ of Conspiracy, lieth for it. Hobb. Rep. pl. 11. 350. March. 130. Pasche. 7. Jac. B. R. Maribam versus Pelsod. 41. 42. Eliz. Co. B. Sheringtons Case. Croo. 2. 193. 32. Buller. 3. part 331. Croo. 1. part 123. Croo. 1. part last publisher. 563.

Where, and in what case the general Action of the Case in the nature of a Writ of Conspiracy will lye against one man. Or not. And how. Sect. 4.

And for the opening hereof, these things are to be known; That in all Cases where this general Action of the Case against one man shall be maintainable, there must be these things in the Case.

1 There must be somewhat done and acted, for the Action will not lye upon a plot, or purpose only. And yet it is not needful in this Case, that there be so much done, as there must be in the Writ of Conspiracy. For in this case, if one do but procure another to be arrested, brought before Justices, examined, or imprisoned for a Felony, and hee be never indicted for the Felony: it seems that for this only without more, this Action will lye in this Case. Coe. 9. 56. 57. Coe. 4. 14. 15. F.N.B. 114. 116.

2 It must be false, and malicious; For if the thing be true, for which the Prosecution is, and there were probabilis causa, for what was done; no Action will lye for this. And therefore it is held, That no Action will lye for prosecuting another in a legal way and course of Justice; as for giving of evidence in any Court against an offender, or for petitioning of a Judge to have the Good Behaviour, or the like. Buller. 3. part 269. Croo. 2. 193. And so, as it is in the Cases before of a Conspiracy, it is in most things in this Action also.

3 In this Case the Plaintiff hath not need to set forth in his Writ, that hee was legitimo modo acquietatus, as hee must in the Writ of Conspiracy. Pasche. 3. Jac. B. R. Marshams Case.

Now is it necessary in this Case, that the Prosecution be to an Acquittal by verdict. For if the party do only charge him with a crime, and cause him to be arrested upon it, and go no further, hee may have this Action for the doing of so much, and no more. Coe. 9. 55. Croo. 1. 223. And yet see Godb. 76. Croo. 1. 173. Hughes page 52. Where it is said, that this Action will not lye, no more than the Writ of Conspiracy, unless hee shew in his Declaration, that hee was upon a Trial legitimo modo acquietatus. But the contrary hereof seems to be the Law herein. Croo. 1. 197. 201. Coe. 9. 55. And in 2. Jac. B. R. Markam and Pelsods Case.

It is said to be agreed, that a Writ of Conspiracy will not lye, but where the Plaintiff is legitimo modo acquietatus. And yet that if one prosecute another to Indictment, and Imprisonment, falso & malitiose, and go no further, that for this, the party prosecuted may have this Action, both for

the Slander and veration both; for hee is legitimo modo acquietatus, by the not prosecution. Goldsb. 51. Hughes Rep. 54. Croo. 1. 223.

4 But in this Case, there need not be, as there must be in the Writ of Conspiracy, two or more in the Conspiracy, for this general Action of the Case, in the nature of a Conspiracy, will lye against one only. Godb. Rep. 76. Croo. 1. 173.

5 It may, out of this, appear to be a safer way in these Cases, for a man that hath suffered such an injury, rather to bring the general Action of the Case, than the Writ of Conspiracy for his releif herein.

What shall be
said a good plea
in Barr, in
this Action.
Sect. 5.

It will be a good Plea in Barr of this Action, to Plead an accord with Execution, between the parties. 21. H. 6. 28.

So to shew that the Indictment, upon which the acquittal was, was erroneous, notwithstanding that the party indicted did not take advantage of it. Croo. 9. 26. 9. Ed. 4. 12. Bridgmans Rep. 132. Dyer. 286. 34. H. 6. 9.

So to say, that there is no such Record as the Plaintiff hath set forth. 9 H. 6. 26. Croo. 2. 32.

So to shew any of the things before set down, that it was done by compulsion, in pursuance of their oath, as Judges, Jurors, and the like. 26. H. 6. 5. Croo. 1. part last published 724. 725.

So that one hath had his goods stolen, and found them in the Plaintiffs possession, and that hee had other causes to suspect him, complained to a Justice, who bound over the Plaintiff to appear, and the Defendant to prosecute. Bulstr. 2. part 284. 285. Croo. 2. 193.

Caution to a
Defendant.

And if the Defendant hath any of these or such like thing in his Case, it will be his wisdom to plead it specially, and not to plead, not guilty. Leonards Rep. 107.

But it is no good plea to say, that the Plaintiff was guilty of the Felony whereof hee was so acquitted, or that one of the Defendants is dead since the Writ brought; or that the Record on which the Action is grounded, is, that the Plaintiff and divers others besides him were indicted therein. 18. Ed. 4. 1. 9. Ed. 4. 23.

Case 1.

Some Cases for
illustration and
confirmation,
of the things
before laid
down about
a Conspiracy.
Sect. 6.

1 One brought an Action in the nature of a Conspiracy, against another, for procuring him to be indicted for the Ravishment of his Daughter, and the Defendant (her father) shewed that his Daughter complained of it to him, and hee to the Justice of Peace, who bound the one to appear, and the other to prosecute at the Gaol-delivery, where hee preferred a Bill of Indictment, and gave evidence, &c. And this was held a good plea and excuse, without saying, that there was a Rape; But if the Plaintiff had set forth, that there was no Rape, and that the Defendant knew there was none, haply the Action might have been maintainable. Croo. 2. 193. Cox versus Wirral. The like Case is, Croo. 1. 130. Markams Case. And the like in Bulstr. 2. part 286.

Case 2.

2 Doggaree vers. Lawry. B.R. Croo. 2. part 190. This general Action of the Case, was brought against the Defendant, for, that hee did falsely, and maliciously accuse the Plaintiff of a felony, and caused him to be brought before a Justice of Peace, and procured him to binde the Plaintiff, to appear at the Gaol-delivery, and there put in a Bill of Indictment against him, which was found not true, &c. The Defendant pleaded, that hee had Sheep stolen, and missed others, which were found in the Plaintiffs possession, going with twelve Sheep that were stolen, &c. And the Jury upon the tryal, found him guilty, and hee had Judgement, and could not get it staied, because the Declaration laid to be false and malicious, and the Jury found it also to be so.

Case

Case 3.

3 Huttons Rep. 49. *Hord versus Cordery*. The Plaintiff brought an Action of the Case against C. the Defendant, and B. his Wife, and D for a malicious confederacy, to charge the Plaintiff with the Felonious Rape of the said D. and procured him to be examined before a Justice of Peace, and thereupon was bound in a Recognisance to appear at the general Sessions, and from thence bound over to the Assizes, and there they Indicted him, and hee was acquitted, and hee averred that hee did not ravish her: And adjudged for the Plaintiff after a Writ of error, and twenty marks costs given for his delay.

Case 4.

4 Leonards Rep. pl. 146 f. 107. An Action of the Case of this nature, was brought by Joan Jerome against Knight, and shee declared, that Knight had maliciously caused the Plaintiff to be Indicted of Felony, and to be Arraigned upon it, and that shee was legitimo modo acquiescens, &c. And the Case was this, that the Defendant came into the Court where the Sessions was held, and complained of the Plaintiff for the said Felony, for which the Justices commanded her, to cause an Indictment to be drawn; and the Plaintiff had Judgement and could not avoid it by a Writ of error.

Case 5.

5 Smith versus Crashaw and others. B.R. M. 1. Car. 1. Croo. 1. 10. The Plaintiff brought his Action of the Case in nature of a Conspiracy against the Defendants, for that they had at T. &c. falsly and maliciously accused him of Treason, caused him to be apprehended, brought to a Justice, to be committed to Gaol, Indicted, and falsly and maliciously affirmed it to be true; and not guilty was pleaded, and verdict given for the Plaintiff, and Judgement given for the Plaintiff, two hundred and forty pound Damages, notwithstanding motions to Arrest it, and after a solemn deliberation. The like Case was by Lover vers. Faulkner. 11. Jac. B. R. Bulstr. 3. part 270.

Case 6.

6 Smith versus Hodgeskins Pasche. 8. Car. 1. B. R. Croo. 1. part 201. An Action was brought for this, that the Defendant malicious et falso crimen feloniz ei imposuit, and caused him to be arrested for Felony: and for these words, and this work; it was adjudged the Action of the Case did lye.

Case 7.

7 Maning and his wife versus Fitzharbert. Hill. 7. Car. 1. B. R. Croo. 1. 197. An Action of the Case was brought against the Defendant, for that hee ex malicia of the Plaintiffs wife, crimen feloniz imposuit, caused her to be brought before a Justice, there charged her with Felony, required that she might be bound over to the Assizes, which shee was forced to do, &c. and this was found for the Plaintiff, and had damages and Judgement, &c.

Case 8.

8 Williams versus Fletcher. Pasche. 10. Jac. In an Action of the Case in nature of a Conspiracy, for indicting of a man for a common Barretor, and making oath to the Jewry, that the Bill was true, upon which the Bill was found, supposing it false and malicious. In this Case it was adjudged, that in this Case no Action of the Case in nature of a Conspiracy will lye, Bulstr. 1. part 185.

Case 9.

9 Three men conspired amongst themselves to charge J. S. with a robbery

bery, and to procure him to be Indicted, and procured divers Warrants from Justices of Peace, by which he was apprehended and examined, and after they preferred an Indictment against him, whereupon an Ignoramus was found; in this Case it was resolved, that an Action of the Case in nature of a Writ of Conspiracy lieth. *Coo. 9. 55. Pasche. 5. Jac. in Cam. Itellar.*

Case 10.

10 It was resolved by the two chief Justices, and the Lord Chancellor, and the chief Baron, That when the Grand Jury doth indict one of Murder or Felony, and after the party is acquitted; that no Conspiracy lieth for him that is acquitted, for this.

Case 11.

11 A man brought this Action of the Case in nature of a Conspiracy, for causing him to be indicted of Felony, &c. for suffering a Prisoner to escape that was convicted, and Judgement was given for the Plaintiff, for this is more than trespass, *Stiles Rep. 157.*

Case 12.

12 Hill 8. Jac. B. R. Wall and Hills Case, Bullstr. 1. part 149. An Action of Conspiracy was brought for conspiring to indict the Plaintiff for a supposed counterfeiting of a Letter, and for the malicious prosecution thereof at the Assizes, and that hee was acquitted. And he pleaded that the Letter was brought to him by one unknown, and delivered to him, two others being in his company, one of which afterwards told him, that the Plaintiff was the man that delivered it, and thereupon hee prosecuted him for it; in this Case it was adjudged for the Plaintiff, for that the prosecution was not upon the Defendants owne, but upon another mans suspicion, and his prosecution, and the justification thereof must be upon good probabilities, and not upon the suspicion of others. Bullstr. 1. part 149. See *Coo. 9. 26. Pasche. 9. Case 13. Car. B. R.*

Case 13.

13 The Action was for that Falso & malitiose, he spake these words of the Plaintiff, He committed Felony, and procured him to be Arrested and Imprisoned for three daies, and had Judgement after a Plea by Verdict, &c. *Croo. 1. 223.*

CHAP. XXIII.

Of Pleadings in Actions of the Case for words.

Of the Declaration to maintain this Action, and what is requisite therein. Sect. 1;

AS to the Pleadings in all Actions of the Case for words, this is first to be known.

1 That the pleadings of the parties to their Action, are in this Action much to be heeded, for the Plaintiff or Defendant, either of them in this may, by his Omission, or Commission, very quickly advantage or prejudice himself, and therefore they must be very careful herein.

2 If there be any thing in the truth of the Case, that may make to the Plaintiffs advantage, it doth concern him to insert it into his Count, and if there be any thing that will make to the advantage of the Defendant, to defend himself against the Action, and the Plaintiff omit it, the Defendant must be sure to take hold of it, and to mention it in his plea.

As to Declarations in Actions of the Case for words, these general things are to be known.

1 That the Declaration is good without the word [Malitiose. *Noys Rep. 35.* yet some say, if falso, or malitiose be omitted in the Declaration, that

that it is not good. Trin. 7. Car. 1. B. R. Norman and Simons Case, yet see the contrary in Stiles Rep. 59.

2 That if it be, dixit the words, and [de Querente] is left out, it is good. Stiles Rep. 69. Bendloes Rep. 143. if there bee any thing to supply it. Croo. 2. 39. but if the words be not recited, to be spoken of the Plaintiff in the Writ, or in the Declaration, and where he reciteth the words he saith, Innuendo the Plaintiff, this is defective. Croo. 2. 126. Brownl. Sec. part 4.

3 That where these words [in Auditum plurimorum lideorum,] &c. be left out, it is held good enough, and yet if these, or other words of usual form be omitted in the Declaration, there perhaps the Defendant may take some advantage by it, and avoid the Action for that time, if he take exception to it before he plead, and before the Trial, for by his plea, and the Verdict, many defects in the Declaration may be cured. Croo. 2. 33. 39. Croo. 1. 144. Hobb. Rep. 63.

4 That the words of the Declaration with in presentia diversorum, without in Auditum is good enough, for that will be intended. Croo. 1. last publisht, 486, 487.

5 If a man sue, and declare of the losse of a Marriage, by words spoken, it is not sufficient to say, He intended and endeavoured to have a Wife, but he must say, that there was a communication of Marriage, &c. Bulstr. 1. part 276.

6 If the Declaration set forth, that he spake the words of the Plaintiff, and in truth, they were spoken to the Plaintiff, it will be good enough, and that Dixit de prefato, and dixit ad prefatum is all one. Croo. 36. and 39.

7 The Declaration was laid thus, That B. that serves Mistris Shelly, hath murdered Adams his Childe [Eliz. Addams filiam Johannis Addams modo defuncti. Innuendo] in this Case the Count was adjudged naught, for modo defuncti. referreth only to the time of the Action. Croo. part 13 71. so if for these words that the Count be, for saying, That the Defendant hath poisoned I. S. Modo defuncto, which referres to the time of the Count, this is not good, for he is to averre him to be dead at the time of speaking of the words. Croo. 2. part 343. Jenk. Century. 8. Case 58, 59. Cent. 7. Case 40.

8 Where the Action is laid for speaking of the Plaintiff, Hee verba, &c. without saying, that there was any speech of the Plaintiff, or any Innuendo, &c. it seems good enough. Croo. 2. 230. 241.

9 To say in the Count, Palam & publice promulgavit, is good without in presentia & auditu, &c. Croo. 1. part last publisht. 861.

10 It matters not whether the Plaintiff doe in his Count set forth all the circumstantial words, as they were spoken, so as he set forth the very words truly that are actionable, and that he must be sure of, for a little variance may marre all. And therefore it is wisely done of those, that where they doubt they charge the Defendant with speaking of various words at several times, and several waies, and by that are sure in one of them to hit upon the very words themselves, or the substance thereof. But then he must take care that the Jury doe asseste damages only for the words that are spoken. Croo. 1. 238.

11 The Count was Quod propalavit quædam verba scandalosa, prout in his Anglicanis verbis sequend. and ruled to be good. Croo. 1. last publisht. 573.

12 If the Count be thus, That the Defendant Colloquium habens cum querent, in the presence of others dixit [meaning the Plaintiff] Thou art a Thief, &c. and this was ruled good. Stiles Rep. 298.

13 That where the Declaration is laid thus, that the Defendant said of the Plaintiff, I hy Father is a Theef [Innuendo the Plaintiff] that this is not good, unlesse hee alleadge it to be said to be spoken to the Son of the Plaintiff, &c. Croo. Rep. 1. 65.

Of the Innuendo in the Declaration.
Sect. 2.

These things are to be known about an Innuendo in a Declaration.

1 That the same may in many cases make certain, that which will otherwise be incertain.

2 That the use and office of an Averment, by an Innuendo, in a Declaration, is either to contain and design the same person, which was named before incertainly. As thus, two are speaking together of B. and one of them saith, Hee is a Theef, in this case B. may say in his Count, that they had speech of him, and one of them said, Hee [Innuendo] the Plaintiff, is a Theef. Or to declare the matter, or sense of the words themselves, which were certainly exprest before, thus, A. and B. speaking of C. A. said, that B. was a Traitor, to whom B. said, that hee was so too: In this case, if A. bring Action for these words, hee may shew in the Declaration, that there was a speech between him and the Defendant of C. And that the Plaintiff said to the Defendant, that C. was a Traitor, and that the Defendant said thereupon to him, that hee [Innuendo the Plaintiff] was so too. In both these cases it is good, M. 20. Jac. B. R. Croo. 1. last publishr. 192. 193. But an Innuendo will never make words actionable, which of themselves are unactionable. Brownl. and Goldsb. 7. Coe. 4. 17. 20. Croo. Rep. 1. 303.

3 That this Averment by Innuendo, cannot change the nature of the words, and make a person, or matter certain in particular, which in itself is so general, that it is altogether incertain. Nor can it alter the matter or sense of the words themselves. As where the words are, Hee did burn my Barn; hee cannot by an Innuendo a Barn full of Corn, make the words actionable. So where the words are, Hee is forsworn, by adding Innuendo in a Court of Record. So where the words are, hee hath the Pox, by adding, Innuendo the French-Pox. So where the words are, hee took my money from mee with a strong hand, Innuendo Feloniously. So where the words are, the servant of J. S. (who hath many servants) is a Theef, [Innuendo his servant J. S. So, one neer about J. S. is a Traitor, Innuendo, J. S. In these cases, the Innuendo will not make these words, otherwise unactionable, thereby actionable. Coe. 4. 17. 20. Owens Rep. 58. Hobb. Rep. pl. 3. 48. Goldsb. and Brownl. 7. 9. So if the words be of a double and indifferent meaning, and in the one sense actionable, and in the other not actionable, this will not make them actionable; or if the words be incertain of themselves, or in the person of whom they are intended, an Innuendo will not make them certain, and actionable. Mich. 6. Car. 1. B. R. Hobb. Rep. pl. 4. 48. Croo. 1. part last publishr. 496. 497.

4 Where the Action is for words, by which a Marriage is lost, it is not enough to say, intendebat, or conatus fuit, to have such a woman. But hee must say, Quod colloquium habitum fuit de Matrimonio. Bullstr. 2. part 276.

As to this of Averment, these things are to be known.

Of an Averment in the Declaration.
Sect. 3.

1 That if the Declaration be for these words, That J. S. hath killed a man; that it is not necessary to aver, that the man is dead. Winch. Rep. 40. Bullstr. 1. part 42. So if the words be, for which the Action is brought, Thou hast robbed my Son, or stoln my Horse; there will not need an Averment, that hee had a Son, or that hee was robbed, or that hee had a Horse. Winch. Rep. 40. Bullstr. 1. part 42. Noys Rep. 55. 63. 116. Winch. 70. 98.

3. That

Sect. 3.

3 That where the words spoken, for which a man brings an Action; do (import a scandal of themselves) concern him, and may indanger his life, liberty, or member, there need not to be an Averment of any special losse by them; And therefore, for calling of one Traitor, Thief, or the like, there will not need an Averment of any losse by it to be mentioned in the Declaration, as where the Action is for calling of one Bastard, or the like. March. Rep. 1. So where the scandal is about a mans Office, or Trade; so it is also where it doth charge a man with such a disease that must separate him from the society of men; But in other cases generally there must be an Averment of special damage. And it is best in most cases to aver it, if the case will bear it. March Rep 59. pl. 93. Brownl. 1. part 10. 13. and 2. part 100. 129. Mich. 17. Car. B. R. And so it is also for words spoken, that are not in themselves actionable, of a man or woman, whereby he or she loseth a Hatch, Office, Service, or Preferment, he or she stands for, and is like to have, there must be an Averment of a special losse by it to maintain the Action, and warrant the Declaration. Pasche. 5. Car. B. R. Axes Case. Trin. 17. Car. 1. Co. B. Sandertons Case. So also for any words of passion that may arise to be actionable, as to call one Rogue, Villain, or the like; these Actions must be made up by a special Averment. Co. 4. 15. So, for any words that are called spiritual, to make them actionable, it must be by a special Averment of losse. Co. 4. 17.

4 If the Action be laid, for saying of these words, Thou hast killed J. S. it need not in this case be averred, that J. S. is dead. Adjudged B. R. Co. 4. 16. Hobb. pl. 11. And yet this hath been denied, and the contrary maintained by some. March. Rep. 109. pl. 187.

5 If the Slander be upon a report, it must be averred in the Court, that there was no such report made. Hill. 4. Jac. B. R. Lady Morrisons Case. Pasche. 42. Eliz. Co. B. Morleys Case. As if the Declaration be for this, That A. B. told mee that D. the Hostler, and hee stole such a mans horses, he must aver that A. B. did tell him so, otherwise if A. B. did not tell him so, the Action will not lye. 42. Eliz. Co. B. Mowl. versus Skelington. Lord Lumleys Case. 10. Eliz. March. of Slanders. 2. part 13.

6 The Brother of the Defendant spake these words to the Plaintiff, Thou Thief, thou Gaol-whelp, &c. And after this the Defendant said, That which my Brother spake is true, I will justify it. In this case it was agreed, that there must be an Averment, that he had notice of his Brothers words. Brownl. 2. part 100.

7 That the word Scier is a necessary word in some Declarations. Godb. Rep.

8 That where the Action is brought for such strange words as these, Thou hast strained my Mare, thou art mainworn, or the like hard words, there needs no averment what the sense thereof is in the Country where they are used, but it may be proved by witnesse at the Trial. And yet some say otherwise; the sure way is to do it by the Declaration. March. Rep. 18. Cro. 1. 96. in Hughes Rep. page 37. And so it seems is the Law for a slander in another tongue. Hobb. Rep. 165. 268. pl. 236. March. Rep. 18. Bendloes Rep. 134. Stiles Rep. 263. Pasche. 7. Jac. B. R. Co. 4. 25.

9 That if the Action be brought, for saying of the Plaintiff, Hee was in the Gaol at S. for robbing, &c. it need not be averred, that he was not in the Gaol, and yet it is the safest way so to set it forth. Sprat and Haines Case.

If one sue for this, said, Hee that dwells in the next house to J. S. one R. L. did rob mee; he that sues upon this, must aver, he dwells in the
ff next

next house to J. S. Palsche. 7. Jac. Clerks Case. 8. R. So if it be for these words, Pritchards man robbed mee; hee must averr hee is Pritchards man. Cob. 4. 16. Hobb. Rep. 16. Brownl. 1. part 13. and 2. part 160.

11. That in all these Actions for words, where there is any thing that is the cause or ground of the Action, or tends necessarily to the maintenance of it, in such Cases the Action is not maintainable, unless that thing be expressly averred to be, or not to be, as the Case requireth. As if it be brought for this, Whosoever is hee, that is the fairest Theef, and the strongest in the County of Salop, whatsoever hee hath stoln, or whatsoever hee hath done; Thomas Haselwood is fairer than hee. In this Case it was resolved, that an Averment must be made, that there were Felons in the County of Salop, or the words will not bear Action, for if there were no Felons there (which shall rather be intended) then is it no slander. Hobb. Rep. 309. Palsche. 1. Jac. B. R.

So also if the words be, That hee is as very a Theef, as any is in England; that in this Case it is held that there must be an Averment, that there is such a Theef in England, yet this Case is more doubtful. Noys Rep. 116. Winch. Rep. 70. 89. So if one say, My Son stole my Hens, if he sue his Father, hee must averr hee is his Son. Mich. 14. Caf. B. R.

Caution.

It will be the wisdom therefore of a Plaintiff in his Declaration, not to omit any thing this way; for to averr any thing needlesse cannot hurt. But not to averr any thing needful is dangerous herein, and destructive to the Action.

12. If one had slandered a man by his Bill in the Start-Chamber, and one had brought an Action for it, and the party said his Bill was true; this had not been sufficient without Averment, and shewing of the particulars of the Bill. Cob. 4. 14.

13. Where the Declaration is for this, Thou art a Theef, for thou stolest my Sons goods; it needs not be averred that hee had goods. 38. Eliz. Co. B. Elin and Moores Case.

14. Where the Count is for this, I will justifie that Barthes is necessary to the Burglary for which C. D. was hanged; there needs no Averment, that hee was hanged for such a Burglary. Trin. 9. Jac. B. R. Barnes Case. If the Action be brought for this charge, Hee stole the Horse of J. S. It need not be averred hee had a Horse. If for this, Hee killed his Masters Cook, it need not be averred, that his Master had a Cook. Bridgman Rep. 60.

15. Where the Count is for this, My Master, B. hath robbed me of all my goods; it need not be averred, that hee was his servant. Mich. 14. Jac. B. R. Browne and Low. So where the Count is, for saying, Pritchards man robbed him; it seems it must be averred, that hee was Pritchards man.

16. If the Plaintiff declare, that there was a conference between the Defendant, and one R. and hee saith, Your Master E. (meaning the Plaintiff) is a forger of Deeds; hee must averr, or it must expressly appear, that R. when hee spake the words, was his servant. Brownl. and Goldsb. 10.

17. That it will lye for these words, Thou didst kill thy Masters Cook, [Innuendo J. S. late servant of J. D. without any Averment, that the Plaintiff had a Master, or that J. D. was his Master. Bridgman Rep. 60.

But if the Wife of the Defendant shall say to the Plaintiff, to A. B. Where is that lying Theef thy Son [Innuendo the Plaintiff] hee hath murdered my Aunt [Quandam D. S. [Amicam defendantis Innuendo] and I will prove it; in this case it is doubtful, Croo. 1. 127.

18. That it is held by some, that if one bring an Action for words spoken

spoken against him as a Justice of Peace, or Officer, that the Plaintiff is to aver in his Count, that hee was a Justice, or Officer at the time of the words spoken. But otherwise it may be; if it be brought by a Tradesman for a slander to him. And there, that it will be sufficient to say, That hee hath been of the Trade for divers years past; and that this will be sufficient. Yet *Carters Rep.* 21. 153. 158.

19 If the words be, Thou art a Thief, and hast stoln more goods, than I am worth; here needs no Averment of his worth. *Bulstr.* 2. part 141.

So where the words be, Thou hast stoln more horses, than I have fingers and toes; there needs none, of his fingers and toes. *Bulstr.* 2. part 141.

20 If the words be thus, Hee hath no sheets in his house, but what were stoln for him; there must be an Averment, that hee hath sheets in his house, or the Action will not lye. 42. *Eliz. B. R. Bulstr.* 2. part 141.

As to this, the Plea in Barr, these things are to be known.

1 That the pleading of the Defendant, or the verdict of a Jury, or both in many cases, may help to cure a defect in the Action brought. *Croo.* 1. 303.

2 That where the Declaration, for the substance of it, is incertain, and naught, the Bar will not help it. But where the fault is in the form only, the Bar may help it. As where J. S. declares for words thus, quod in presentia diverlorum, &c. dixit de prefat. querent. hæc verba Anglica, viz. thy Father [predict. querent. Innuendo] is a Thief, for hee stole my Sheep; the Defendant doth justify, and it is found for the Plaintiff; no Judgement can be had; because it doth not appear that the words are spoken of the Son of the Plaintiff. *Brownl. Rep.* 1. 187.

3 That the Defendant may, in this Action, plead not guilty; or if the Plaintiff declare upon some of the words only, where all of them together are not actionable, the Defendant is to set them forth at large, as hee spake them, and traverse, justify or plead not guilty to the rest of the words as the Case is. Or if the words be true, and hee be able to prove it, hee may justify the speaking of them. As for a charge of Perjury, to the which was perjured in the Star-Chamber, for calling of him Thief, that hee was attainted of Petit Larceny. *Coo.* 4. 13. 19. *New Book of Entries.* 24. 25.

26. And so in all cases, where the Plaintiff shall omit any thing material on the Defendants part, the Defendant may plead it by way of Bar. *Coo.* 4. 17.

4 To say, a man was indicted for a Felony, may be justified, if it be true; but the words are not actionable. *Hobb. Rep.* pl. 89.

5 In a Charge of Perjury, it is not a good Justification, to say, That hee swore such a thing in a Court fairly, unless hee add this, knowing it to be false. *M.* 38. 39. *Eliz. B. R. Willis Case.*

6 If one call a man Thief, hee may justify it, for that hee stole a Sheep. *Hobb. Rep.* 258. 27. *H.* 8. 22.

7 If I say to another, A. B. is a Thief to J. S. and to mee; and an Action is brought for this, and I justify for a Felony done to mee only; this is not sufficient, for the Charge is of a double Felony, and the Justification is only by a single Felony. *M.* 21. *Jac. B. R.*

8 An Action was brought against Husband and Wife, for words spoken by the Wife, and they pleaded not guilty, and agreed to be nought, and that the Wife alone is to plead not guilty. *Brownl. Rep.* 6. *Hobb. Rep.* 126.

9 That where A. doth call B. Thief, and hee doth justify that hee stole Sheep, and the Defendant shall plead the general pardon after the words spoken, that this is not good. *M.* 13. *Jac. Com. B. Cuddingtons Case.*

What shall be said, a good plea in bar, or justification to this Action.
Sect. 4.

10 That it is not a good justification to a Charge of calling one Thief, that a Robbery was committed, and the common fame was, that the plaintiff did it. Dyer 230. Brownl. 2. nor is it a good justification for calling of one Murderer to say, There was a Murder done, and the Plaintiff was indicted for it, or that he was imprisoned for it; or, that the common fame was, that he did it. Dyer 236. Broo. 127. New Book of Entries, 26, 27. Nor can one justify the charging of one with felony after he hath a pardon. Hobb Rep. pl. 106.

11 If in this Action, the Plea be not guilty, and part of the actionable words only be found, this will maintaine the Action. But if the Defendant take a Traverse to the words, Contra. Noys Rep. 134.

12 The Action was for this, Thou didst keep, and sell by false weights, and in twenty four shillings bestowing, thy weights were false two ounces, and thy man will be a witnesse against thee, and I will prove it. The Defendant justified in pleading that the Plaintiff kept a Shop, and used unlawful weights, and by such weights sold, by reason whereof hee said these words, viz. Thou didst keep, and sell by unlawful weights, and in twenty four shillings bestowing, thy weights were false an ounce and three quarters, and thy man, &c. and traversed the words in the Declaration; and it was adjudged a naughty Traverse, for that the words in the Barre, and justified by the Defendant, are actionable. Goldsb. and Brownl. 5.

13 The Action was brought for this word perjured. The Defendant justified, that it was found by Verdict, that the Plaintiff was perjured, but no Judgement was entred upon that Verdict, and it was adjudged no Barre, because no Judgement was given in the first Action. Goldsb. and Brownl. 11.

14 That where the words may be justified Ex causa dicendi, there the Defendant may (if he please) take the general issue not guilty, Modo & forma, &c. and give in evidence of the coherence, occasion, or connexion of the words; or he may (as the cause shall require) justify the speaking of other words, and traverse the speaking of the words in question, and upon the evidence have the words specially found.

15 And when the matter in fact will serve for the Defendant, albeit he may suppose, that the Plaintiff hath no cause of Action, yet is it not safe for him to hazard his Case upon a Demurrer, but first let him take his advantage of the matter of fact, and leave the matters in Law, which arise upon the matters in fact to the last, for after trial the matters in Law shall be saved to him. Coe. 4. 14. See more. Croo. 1. part last publishr. 239. 492.

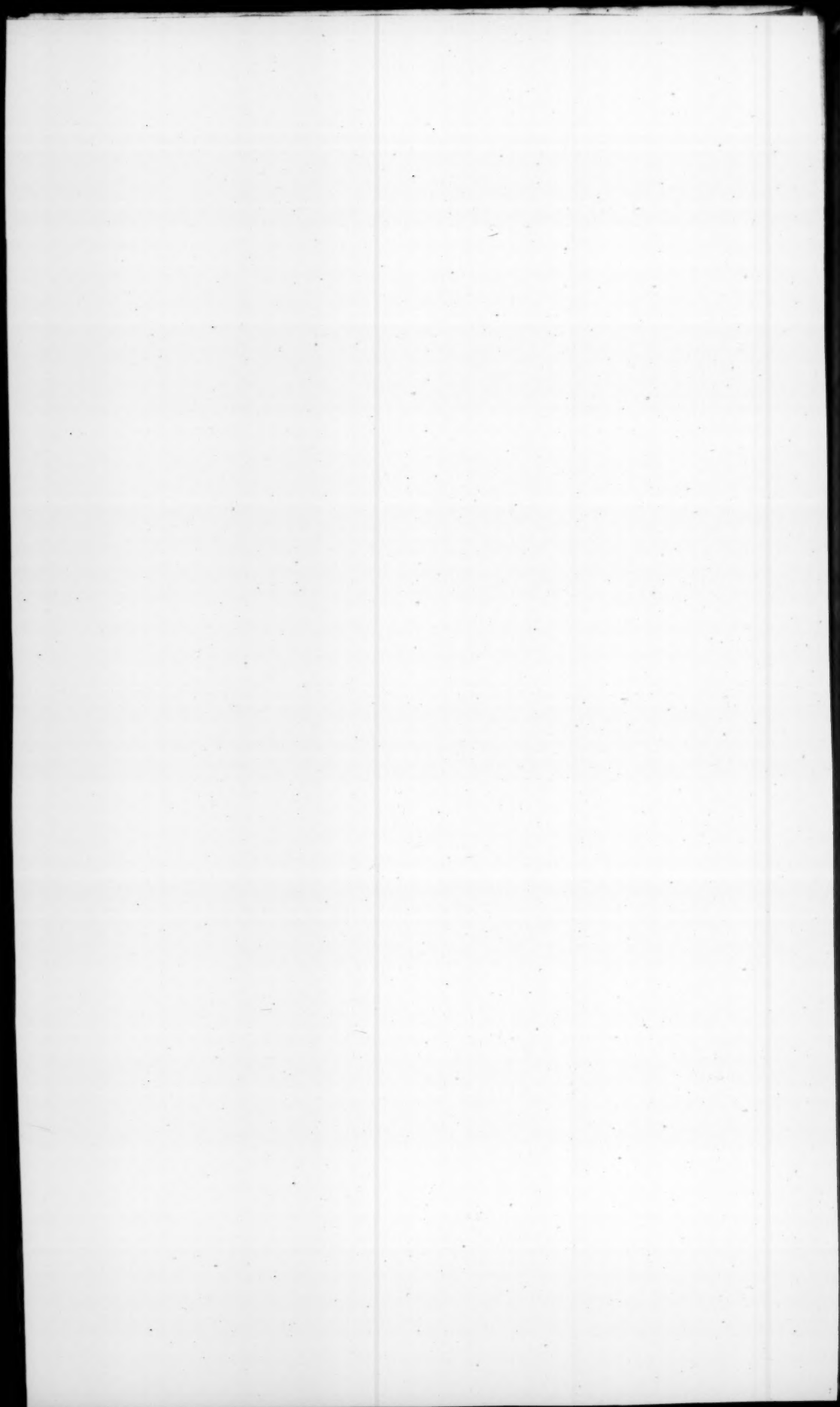
What shall bee said a sufficient Verdict of a Jury herein, upon which Judgement may be had.

As to this question three things are to be known,

1 That where the Action is laid for saying, I know him to be a thief, and the Defendant pleaded other words, Absque hoc, &c. And the Jury doth find it thus, I think him to be a thief, this will not be a good Verdict to give judgement upon. Hobb. pl. 213.

2 That where the words are laid to be spoken thus, That Nicholas Fenner procured eight or ten of his Neighbours to perjure themselves; the Defendant pleads not guilty, and the Jury doth finde, that the words are thus; That Nicholas Fenner had caused eight or ten of his Neighbours to perjure themselves; it is doubtful whether this be a good Verdict to give judgement upon, or not, M. 4. Jac. B. R.

3 That where the words are laid to be thus, That John Barber and his Children be false theeves, men cannot have their Cattle going upon the Common, but they will kill, and eate them, &c. and the issue is joined, whether the Defendant spake the words, modo & forma, &c. and the Jury doth finde the words spoken to be thus, viz. Men cannot have their Cattle,



Cattle, &c. but they doe not finde the first, which are the only Actionable words to be spoken; this is not a good Verdict to have a Judgement for the Plaintiff, for the words found are not Actionable. Dyer 118.

4 That where the words are laid to be spoken thus, A. is a Thief, for he hath stolen a Lamb from A. and Geese from B. and killed them in my ground, the issue is, whether the words be spoken modo & forma, &c. and the Jury finde that the words spoken were thus, That the Plaintiff was a thief, for he hath stolen a Lamb from A. and killed it in my ground, and nothing said of the Geese, this is good enough to warrant the Declaration, and to give him a judgement upon it. Hill 3. Jac. B. R.

5 That where the words are laid to be thus, Burges is a maintainer of Theeves, and a strongthief himself, and the issue is joyned upon the words, Modo & forma; and the Jury finde all the words, but the word [strong] this is a sufficient Verdict to ground a judgement for the Plaintiff, and by these Cases we may observe, That if the Action be brought for more words than are found, yet if there be some of the words that are actionable found, it is well enough. Dyer 21. 75. And so it is if the Jury finde other words than those that be in the Declaration, if they doe not finde withall so much of the actionable words for substance, as are set forth in the Declaration. Croo. 2. 407, 408.

6 Where an Action is brought for words, some whereof are; and some are not actionable, and the Jury asseſse damages for all together; this will bee error. And yet if words bee spoken at several times, and the words spoken at one time are actionable, and the words spoken at another time are not actionable, but they have reference to the former words; in this Case, the damages may be asseſsed for both entirely and good. Croo. 1. 238. And yet if an Action be brought for calling of one Murtherer, Blod-sucker, Villain, Rogue, Bankrupt, some of which are, and some are not actionable, and the damages bee asseſed by the Jury entirely, this will bee good enough, and it shall be intended to bee given only for the actionable words. Croo. 1. 238.

7 Where words are spoken at several times, and some are actionable, and some not, and two Actions are brought for them, and both are found for the Plaintiff, and damages are given entirely, this is not good. But otherwise it is, where one Action is brought for words actionable spoken at one time, and words not actionable, spoken at another time, for there it shall be taken to be given for the actionable words only. Bullstr. 3. part 283. yet see the contrary in Croo. 10. 131. Jenk. Cent. 8. Case 89. Croo. 1. 471. Hobb. Rep. 6. Jenk. Cent. 7. Case 70. Croo. 2. 343.

8 The Plaintiff declares, that the words are spoken Falſo & malitiose, and the Jury finde, that they were spoken Falſo & injurioſe; this is not a good Verdict for the Plaintiff to have a Judgement upon it. Trin. 7. Car. 1. B. R.

9 The Declaration was for calling of J. S. thief, and the Record of Nisi prius was quod predictus W. dixit de prefat. I. S. hæc scandalosa verba, &c. prefat. W. Innuendo, whereas it should have been prefat. I. S. Innuendo; and this was amended by the Court. Croo. 2. 157.

As to this Question, these things are to be known.

1 That the Writ and Declaration must set forth, that the words were spoken in auditu, or in presentia quamplurimorum subditorum, &c. otherwise it is not good, and the Defendant may take advantage of it; but if hee doe not except against it, but plead to it, and it bee put to a Jury that doth finde for the Plaintiff, this may haply supply that defect. Croo. 1. 65. 144.

Where the plea in Bar, or Verdict of the Jury will help to maintaine the Declaration and Action, or not.

Sect. 6.

2 That where the words supposed by the Declaration are, That Eyres [Innuendo the Plaintiff] is a Theef, And hereupon the Jury doth finde it for the Plaintiff; this is good, and doth make the incertain words certain and actionable. Eyres Case. M. 7. Jac. B. R.

So if one say to another, of a woman passing by, shee is a Witch, and hath bewitched my childe [Innuendo, the Plaintiff] and verdict is given for the Plaintiff; now it is out of question, Pas. he. 18. Jac. B. R. Roberts Case.

3 That where the words that are found by the Jury, do not agree with the words in the Declaration, in the substantial and essential form; in this Case, they will not warrant and maintain the Declaration. But if they do agree in the substantial and essential form, though they agree not in every word, yet they may warrant the Declaration, and maintain the Action. Hobb. Rep. pl. 213. M. 4. Jac. B. R. Hill. 3. Jac. B. R. Dyer 21. 75. And although all the words in the Declaration be not found, yet if the essential and substantial form of the words be found, it will be good enough. Dyer. 21. 75.

4 In this Action, for words upon not guilty pleaded, the Jury found the words laid in the Declaration, to be spoken by the Defendant of the Plaintiff. The words were these: Thou art a Theef, and I will prove thee so. And the Jury finde, that hee spake the words de Querenti, not in his presence, but in his absence, and so finde it specially. And it seems it might be good. Bulstr. 1. part 56.

5 In this Action against a Husband and Wife, if the Jury finde the Husband guilty, and the Wife not guilty, and a verdict be found in the Case. And albeit that the Declaration be naught, it now is holpen by the verdict, and the Plaintiff may have Judgement. Stiles Rep. 350.

6 If the Action be brought by the Plaintiff against the Husband and Wife, for words spoken by the Wife, and the Jury finde the Wife guilty; this is good, and the Judgement shall be against them both. Stiles Rep. 460. Brownl. and Goldsb. 7.

Sect. 7.

7 The Count was, that the words were spoken falso & malitiose, and the Jury found it falso & injuriolc. And it was agreed to be naught, and that they were not actionable. Trin. 7. Car. B. R. Norman and Simons Case.

8 The Count was, that the words were, That hee is a maintainer of Theeves, and a strong Theef. And the Jury found all the words, but the word strong. And it was adjudged for the Plaintiff. Burgis Case. Dyer. 75. 21.

9 The Count was, That John Barker and his children be false Theeves, men cannot have their Cattel going upon the Common, but they will kill them, and eat them, &c. And the Jury found the last, but not the first words, viz. B. and his children be false Theeves, which are the only actionable words, and it was adjudged for the Defendant. Barbars Case.

Costs recover-
able.

If the Action be for words only, and the Plaintiff recover, hee is to have no more costs, than the Jury have given damages. But if the Action be for words and deeds together; as for slandering, and causing imprisonment, or the like, there hee is to have full costs. Croo. 1. part 223.

If the Plaintiff be non-suit, the Defendant shall have costs. Hobb. pl. 286.

CHAP. XXIV.

Of a Libel.

A Libel, called *Famofus Libellus*, seu *infamatoria fcriptura*, is taken for a scandalous writing, or Act done, tending to the defamation of another. And this may be, and sometimes is againſt a publick, and ſometimes againſt a private perſon, ſometimes againſt the living, ſometimes againſt the dead.

Libel. What.
Sect. 1.

This may be by writing, or by other Act done. By writing, when any Epigram, Rhyme, or other writing is compoſed, or publiſhed to the noſe, or contumely of another, by which his fame or dignity may be prejudiced. And this may be either *verbis*, or *cantilenis*, as where it is maliciously repeated, or ſung in the preſence of others. 2. Traditione, when the Libel or any Copy of it is delivered over to another, to the intent to ſcandalize the party; Or it may be done by other waies. An infamous Libel without writing may be, either by pictures, when the party is painted in any ignominious, or reproachful manner. 2. Or, by ſigns, when one doth make or fix a Gallows, or any other reproachful or ignominious ſign, at the door of the party, or elſewhere. *Coo. 5. 126.* Or the like.

The kinds of it.

Thus *Jeffes* exhibited an infamous writing, directed to the King againſt *Sir Edward Cook*, Chief Juſtice of the Kings Bench, and againſt the Court for a Judgement given in the Court, affirming the Judgement to be Treason, calling him therein Traitor, and perjured Judge; and ſcandalizing all the Profeſſors of the Law, containing much ſcandalous matter in it. And fixed the Libel upon the great Gate, at the entrance into *Westminster-Hall*, and in divers other publick places, and was indicted for it in the Kings Bench, and fined a thouſand pound, committed to the Marſhal, ordered to ſtand on the Pillory at *Westminster* and *Cheapside*, with a Paper of his offence on his back, to be detained in priſon, till hee made an open ſubmiſſion, in all the Courts at *Westminster*, and to be bound with ſureties for his good Behaviour during life. *Croo. 1. 125.*

And ſo an infamous Libel was compoſed and publiſhed in verſe, againſt *John the Archbiſhop of Canterbury*, and his ſucceſſour, by Circumlocutions and deſcriptions, and not in expreſſe terms, by which they were ſcandalized and ſcandalized, which was puniſhed in the Starre-Chamber. *Coo. 5. 225.*

And ſo *William Peacock* did exhibit his Bill in the Starre-Chamber againſt *Sir George Reynel*, for this, that the Defendant perceiving, that the Plaintiffs Father was inclined to ſettle his Land upon him, that hee, to take off his affection, and that hee might ſettle it upon himſelf; wiſtes a Letter to his Father, that the Plaintiff was not the Son of a Peacock, and was a haunter of Taverns, and that divers women did follow him from London, and that hee longed for his death, and that his Land would not be ſufficient to pay his debts, &c. And the Defendant was there fined two hundred pound, and impriſoned for it. *Brownl. 2. part 152.*

And in this Caſe, it was agreed, That if the Letter had been directed to the Plaintiff himſelf, and not to the third perſon, then it ſhould not have been a Libel; or if it had been directed to a Father, for Reformation of any Acts by his children, it ſhould not be a Libel; for if a Letter contain ſcandalous matter, and be directed to a third perſon, if it be reformatory, and for no reſpect to himſelf, it ſhall not be taken to be libellous. As if one write to a Father, and tell him of the faults of his children, and wiſh him to ſee

Action of the
Case.

to it, but here it appeareth to be done with respect to himself. Brownl. 2. part 152.

And so in Sir Baptift Hicks Case, who had done many pious and charitable good works, and one A. B. did write him a Letter, that hee had done these works, as the proud Pharisee, for vain-glory and ostentation, and to have popular applause; and further, opprobriously taxed him with other unlawful Acts; And it was resolved in the Starre-Chamber, that for this private Letter, that no Action of the Case would lye, but that it was punishable as a Libel. But some of the Judges held, that such a private Letter was punishable. And the party was there fined five hundred pound. Pophams Rep. 139. 140.

And so the Lord Darcy sued Markam in the Starre-Chamber, when Markam and the Lords man had fought, and the Lord had parted them, and took off his man from him; and after Markam wrote five or six Letters to the Lord, and subscribed them with his name, but sent them not, but dispersed them seated in the fields, the effect of which Letters was, That whereas the Lord said, that if hee had not been, his man had beaten him to clouts, hee lyed, and as oft as hee should speak it, hee lyed; and that hee would maintain with his life, and then said, that hee had dispersed those Letters, that hee might finde, or some body else might bring them to him, and concluded, that if hee were desirous to speak with him, that hee should send his Boy, and hee should be well used, and hee was fined five hundred pound, Hobb. Rep. pl. 153.

So Lake against Hatton in the Starre-Chamber, supposing that hee delivered to his Daughter, the Lady Rosse, a writing purporting that the Countesse of Exceter had a purpose to poison both the Lady Rosse, and the Plaintiff her Father, and to charge him with a Plot, &c. Hobb. Rep. pl. 334. 337. See Herleys Rep. 10.

And as to this, these things are further to be known.

The Rules about it, and wherein the offence lieth.

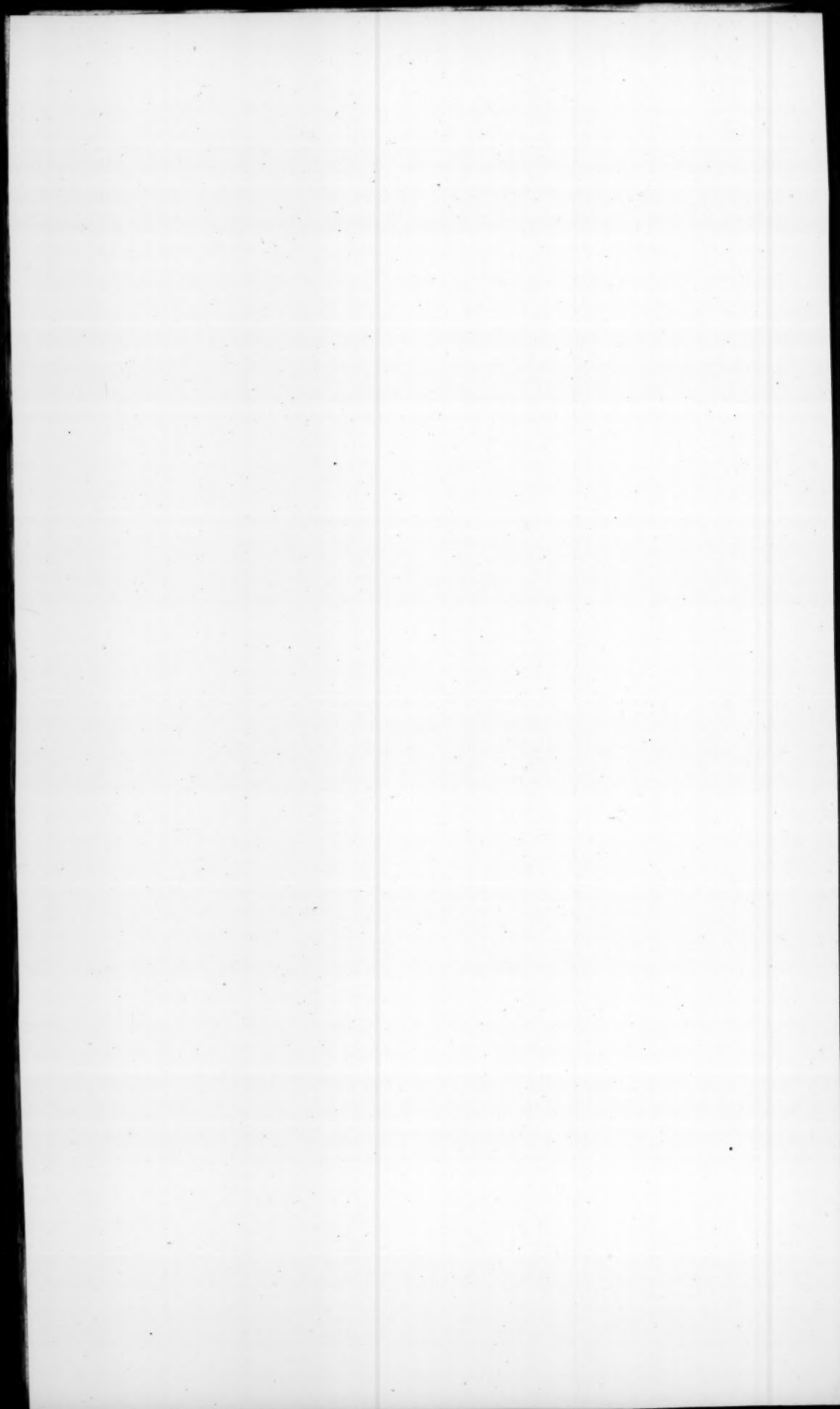
1. That it matters not whether the things said be true or false.
2. It matters not whether the party against whom it is made, be of good, or evil report.
3. It matters not how it be divulged, and whether secretly or openly.
4. The offence about this, lyeth either in the contriving of it, or in the procuring of it, to be contrived; Or in the malicious publication of it after a man knoweth what it is. But to read it, or hear it read; or when hee readeth or heareth it, to laugh at it, is no offence, or if hee take a Copy of it only, and do not publish it to others, this is no offence. But if after hee hath read or heard it, hee repeat the same, or any part of it in the hearing of others; Or after hee knoweth it to be a Libel, hee readeth it to others; this is an unlawful publishing of it; And if hee take a Copy of it, and do not after deliver it to a Magistrate, to examine it, it is a great evidence, that he doth publish it. Coe. 9. 60.

That if therefore one write a Letter containing scandalous matter against another, and send it not to him, but to a third person, this may be a Libel. Brownl. 2. part 152. And so some hold of a Letter written to the party himself. Popham. Rep. 139. 140.

And so it seems, of a Letter written to the party himself, and not sent to him; but scattered abroad, that hee might have notice of it. Hobb. Rep. pl. 153.

5 That albeit the party, of whom the words be spoken be dead; yet the Libeller may be punished for it, be it against a private or a publick person.

6 That therefore if one finde a Libel, and will keep himself out of danger,



ger, if it be against a private man, the finder is either to burn it, or give it presently to a Magistrate; but if it concern a Magistrate or other publick person, he is presently to deliver it to a Magistrate, to the intent the author of it may be found out.

Hobb. Rep. pl. 334. Co. 5. 125. The offence, if it bee against a publick person, a Magistrate, a Lord, or eminent man, is greater, and the punishment will be greater, than where it is against a private person, or meaner man. When the Starre Chamber stood it was punishable there, now it is punishable by Indictment in the Kings Bench, and in other Courts.

And if a great man be slandered by such a way, he may perhaps have his remedy by the writ De scandalis Magnatum; and if it amount to a slander, and fall out to be within the Rules thereof, the party grieved may have an Action of the Case for a Slander in this way as well as otherwise, Brownl. 2. Rep. 152. Co. 5. 125. But for slander to them that be dead, it is to be enquired how this should be punished. Co. 5. 125. Co. 12. 134. Hobb. Rep. pl. 334.

CHAP. XXV.

Some Cases for the illustration and confirmation of all that is before laid down in the whole work.

Case 1.

The Lord Cromwells Case, 20 Eliz. He brought a writ de scandalis Magnatum upon 2 R. 2. cap. 5. against D. Uicar of S. for these words, It is no marvell though you like not of me, for you like of those that maintaine sedition against the Queens proceedings. The Defendant made a special justification, and shewed that there was a Dialogue between the Plaintiff and Defendant about the Book of Common Prayer, and that therein the words were used, and therein it was resolved:

1. That this is a general Law, of which the Judges are to take notice. 2. For it concerneth the Kings Peer, and therefore the King. 3. It concerneth (by the words of the Statute) the whole Realm.

4. It was objected, That he might like those that maintain Sedition, not knowing they did maintain it. To which was answered; That Sedition is a thing publick, of which it shall not be imagined that he is not knowing. But it appearing by the discourse between the parties that the words upon which the Action is founded taken according to the subject matter are not actionable. As if A. and B. talking of how many Hares one of them had killed, and the other therein say to him, You are a Murderer, this is not actionable. The Plaintiff therefore was barred, Co. 4. 12.

Case 2.

Cutler and Dixon. To prefer scandalous Articles against any man to the Justices of the Peace, to the intent he may be bound to the good behaviour is in pursuance of justice, and not actionable. M. 27. 28. Eliz. Co. 4. 14.

Case 3.

Sir Richard Buckley and Owen Wood: Sir Richard sued him for preferring divers scandalous Articles against him in the Star Chamber, not determinable there, and for affirming the same to be true, [without naming any of the particulars of the Bill] in the County of S. W. doth traverse the affirmance before, or after the day in the Count. In this Case it was resolved,

h h

i That

In a course of
Justice.

1 That the Traverse is not good, that the day in the Court is ex-
cluded.

2 That no Action lyes for things determinable, in that Court where
the Complaint is made, for it is in a course of Justice.

3 For things not determinable there, it is otherwise, for an appeal of
Murder brought in the Common Pleas, no Action will lye, it is in nature
of a just Suit, though the Court be mistaken, but because the words in the
County out of which the Action is composed are not actionable, the hearers
not being of judgement to know what was in the Bill, Judgement was
given aga inst the Plaintiff. *Coo. 4. 15.*

Case 4.

Words general
and incertain.

Officer.
Justice of
Peace.
Perjury.

Stanhop and Blisse Case, 27 Eliz. An Action was brought by *Walter Stanhop a Justice of Peace, Surveyor*, for these words. He hath but one Mannour, and that he hath gotten by swearing and forswearing. It was resolved, that the Action would not lye, for the words were too general, and such words to ground this Action must have convenient certainty in them, he doth not charge the Plaintiff with swearing, &c. and he may recover a Mannour so, and yet not procure or agree to the perjury. It was resolved to say to another, He hath forsworn himself, is not actionable, for this may be in an ordinary discourse; but to say, a man is perjured, or that he was forsworn in such a Court, is actionable.

And resolved also, that for words of Passion and Choller, as to call one Villaine, Rogue, Varlet, or the like, will not bear Action. *Coo. 4. 15.*

Case 5.

Charge of an
endeavour of
Murder.

Justice of
Peace.
Incertain words

Words general.
endeavour.

Hert and Yeomans Case. The Plaintiff being a Justice of Peace, sues for these words; For my ground in Alerton Hert, seeketh my life, and if I could finde I. S. I doubt not but within two dayes to accuse H. of Felony. In this Case it was adjudged, that for the first words for my ground in A. he seeketh my life, no Action will lye, for this may lawfully be done if he hold Land of him, and be an offender.

2 Seeks my life is too general, there is no punishment to be inflicted for seeking only. But for the latter words, it was agreed they were actionable, because for a suspicion of Felony, a mans life is brought in question, and he may be imprisoned. *Coo. 4. 16.*

Case 6.

Officer char-
ged to deal
corruptly.

Byrchleys Case, 27, 28 Eliz. The Defendant said to B. C. a Clerk of the Kings Bench (and sworn to deal duly without corruption) discourting together about his carriage in his Office, these words, You are well known to bee a corrupt man, and to deal corruptly. In this Case it was adjudged that the Action did lye.

Causa Dicendi.

1 For the words *Ex causa dicendi*, imply that he meant, he did deal corruptly in his office, and this toucheth him in his oath.

Justice of Peace
slandered.

2 The words scandalize him in that whereby he gets his living; *Skin-ner of London* said, That *Marwood* was a corrupt Judge, and it was adjudged actionable; and in this Case it was resolved, That if the prece-
dent talk had been, that B. was a *Storer*, or *Executor* of another, and would not perform the Will. And upon this the words had been spoken, they had not been actionable. *Coo. 4. 26.*

Case 7.

Detected for
perjury.

Slander of a
Justice of
Peace.

Weaver and Caridens Case. It was adjudged that no Action lyes for saying, That the Plaintiff was detected for perjury, for an honest man may be detected, but not convicted. *Coo. 4. 16.*

Case 8.

Stuckley and Bulheads Case, 44, and 45 Eliz. It was adjudged, That
this

this Action will lye for saying of a Justice of Peace, Hee covereth and hideth Felonies, and is not worthy to be a Justice of Peace. For this is against his Oath, and Office, and cause to put him out of Commission, and for this hee may be indicted and fined. Coo. 4. 16.

Case 9.

Snagg and Gees Case. An Action was brought for these words, Thou hast killed my Wife, and art a Traitor; and it was adjudged that the Action would not lye, for the Wife (as appeared) was alive, and so vain, and no scandal, but otherwise it would be, if shee had been dead. Coo. 4. 16.

Charge of Murder.
Words Repugnant.

Case 10.

Eaten and Allens Case. An Action was brought for these words, Hee is a Brabler, and a Quairteller, for hee gave his Champion counsel to make a Deed of Gift of his Goods, to kill mee, and then to flye out of the Country, but God preserved mee. And it was strongly urged, that the Action should be maintainable, and divers cases cited. Lady Cockein. Mich. 32. 33. Eliz. B. R. for these words, My Lady Cockein offered to give poison to one to kill the childe in her body. Another between Tibbot and Heine in Gloucester, for this, Tibbots and another did agree to hire one to kill S. B. Also Cardinals Case. If I had consented to Mr. Cardinal. T. H. had not been alive. And the Lord Lumleys Case, My Lord Lumley hath gone about to take away my life, against all Christian dealing. But upon great deliberation it was adjudged, that the words were not actionable, for a purpose, or intent to do an evil Act (unlesse it be in case of Treason) is not punishable by Law; yet such a Conspiracy might have been punished in the Starre-Chamber, when it was up. Coo. 4. 16.

Charge of Murder.

Attempt and endeavour to murder.

Attempts and endeavours.

Case 11.

Anne Davis Case. The Plaintiff was neer to Marriage, the Defendant said of her, Shee had a Bastard, and by this shee lost her Marriage; this is actionable. 1. For shee is punishable upon 1. Eliz. if true. 2. So upon any naked charge of Incontinency, and special damage shewed by it, and the ground of the Action is temporal, viz. the defeating of her advancement in Marriage. By Popham. An Action lyes, for saying that a woman Inholder had a great infectious disease, by which shee lost her Guests. Banisters Case 25. Eliz. And it was resolved, that an Action lyes, for saying of the Son and Heir, Hee is a Bastard, for it tends to his disinheri- tance. But if the Defendant tw, be right Heir, and the other a Bastard, then it is not actionable. Coo. 4. 16.

Charge of Incontinency.

Inne-keeper.

Infectious disease.

Case 12.

James and Rutlech. The Action was brought for these words, Hang him, hee is full of the Pox [Innuendo, the French-Pox] In this Case it was resolved, that two things are requisite in this Action. 1. That the person scandalized be certain. 2. That the scandal be apparent by the words themselves; and therefore if ene say, One of the Servants of J. S. is a notorious Theef, or Traitor; if hee have more servants than one, no Action will lye upon this. So, I know one that is neer to J. S. is a notorious Theef, &c. But if two speak of B. and one of them say, Hee is a notorious Theef, an Action may lye for this, and B. may reduce it to a certainty by Innuendo predict. B.] for the office of an Innuendo, is, for to design the person that was named before in certain, and in effect, is instead of predict. But this will not make that certain, which was uncertain before, and subject to a de- ceivable conjecture. But if one say to B. Thou art a Traitor, an Action lyes, for constat de persona. So here, where two speak of the Plaintiff, and one, as the Case is, saith, Hang him; &c. there the Innuendo will de-

Incertainty
1. Of persons;
2. Of things.
Pox.

Innuendo.

denote the person, but it cannot extend to make the intent to be the French-
por by imagination, which is not apparent by the precedent words; and
the words shall bee taken in mitiori sensu. *Coo. 4. 17. Barhams Case. Coo.*
4. 20. is to the same purpose, which Case is also reported by *Yelverton 21.*

Case 13.

Where in
London.

Oxford and his wife against Crosse. The Plaintiff brought an Action in
London for calling the wife of the Plaintiff Whore. The Defendant re-
moved it out of London by habeas corpus. A procedendo was prayed, be-
cause the Action was maintainable in London, though not at Common Law.
But it was denyed by the Court; for such a Custome to maintain bzzabling
words is against Law. *Coo. 4. 18.*

Case 14.

Perjury.
Adjective
words.
Incertain
words.

Birtridge Case, B. R. Mich. 44. 45. Eliz. An Action was brought for
these words, M. B. is a Perjured old Knave, and that appears by a Stake
parting the Land of, &c. In this Case it was resolved, that Adjective
words are Actionable in Cases where they import any act committed, or
Slander of a man in his profession; and here it appears, by the rest of
the words, that they were not meant of Perjury before a Judge, &c.
2. The discourse was vain, &c. And there it was said, that upon all
the words together no Action would lye, but in *Yelvertons Rep. 12.* there is
the same Case under the names of Brechley and Arkins, and the Judges
are said to bee divided in it, and no resolution is said to bee given in it,
and in page 34. reported under other names, to bee adjudged not Actiona-
ble. And in the Case of Palmer and Crofts it was resolved, that the suit, for
Scandals in the spiritual Court, must have three incidents, 1. It must
concern matters spiritual. 2. And matters spiritual only. 3. It must
not demand damages. *Coo. 4. 20.*

Spiritual slan-
ders.

Case 15.

Infected of a
Murder.

Havely and Sidnham Mich. 14. 15. Eliz. B. R. The Action was brought
for these words, Mr. H. is infected of the Robbery and Murder lately
committed, and doth smell of the Murder, [Innuendo predict felon, et
murdré in forma predict commiss. which was before alleadged to bee done.
And it was adjudged to lye, especially for the word Infected. *Dyer. 317.*

Case 16.

Charge of theft
Indirect words.
Averment.

It hath been adjudged to lye for this, Hee was in the Gaol at Norwich
for Robbing one by the High-way. Albeit hee did not aver, that hee was not
in the Gaol, but it is most safe for the Plaintiff to say, hee was not in the
Gaol, and albeit no Robbery were in the Case. So for saying, Hee
was in the Tower for High-Treason. So for saying, Hee hath Robbed
J. S. albeit J. S. were never Robbed. *Sprat and Haines. Mich. 9. Jac.*
B. R.

Case 17.

Slander by Re-
port about theft
Averment.

It hath been adjudged to lye for this, said to a Son in Law, of his fa-
ther in Law, A. B. told mee; that hee was accessory of Stealing Tucks Sheep,
and that hee was as very a Theef as any in Launson Gaol; and hee averred
that A. B. did never tell him so, and that Tucks Sheep were stolon, and
that there were certain Felons in Launson Gaol; and that if A. B. did not
speak the words, or did not speak all the words, that are Actionable; this
Action will lye against the Defendant. *Mich. 9. Jac. B. R.*

Case 18.

Perjury.

It hath been adjudged to lye for this of A. B. Hee was Perjured. *Jacob*
and Sugate.

Case 19.

It hath been adjudged to lye for this, said of a Shoemaker, that lives by

by buying and selling, Thou art a Bankrupt, and I will drive thee out of Bankrupt.
the Country for a Bankrupt. Day and Chandler. Mich. 9. Jac. B. R.

Case 20.

It hath been adjudged (as it is said) not to lye for this, She is a Whore, Charge of In-
Reads Whore, and thee was ridden up stairs, and down stairs, M. 9. continency.
B. R. Spiritual.

Case 21.

It hath been adjudged to lye for this, said to J. S. Go and tell A. B. hee Charge indi-
is a Theet, and I will justifie it. Albeit J. S. do never tell A. B. so, Mich. rect.
9. Jac. Fox and Bell. B. R.

Case 22.

It hath been adjudged to lye for this, said to Covell, I did tell Mr. Ca- Charge indi-
rus, that I am neither Traitor to my Prince, nor Rebel to my Country, as rect.
J. S. is. Albeit the Defendant did never say the words to Mr. Caius, but
only to Covell; and albeit hee had spoken them so secretly to Covell, that
no other person heard them. And there it was said, that one was punish-
ed in the starre Chamber, for sending a scandalous Letter sealed, and
sent to the party slandered, albeit it was never published, nor known to a-
ny other but himself. Mich. 9. Jac.

Case 23.

It was adjudged to lye for these words, spoken by a woman that had a Charge of
Husband, Thou dost not live honestly, for thou hast stoln my two Cocks, Theft.
albeit they were her Husbands, and not her Cocks. Mich. 9. Jac.

Case 24.

It hath been adjudged, to lye for this, Hee came to my Wife, and took Charge of
her by the hand, and said, thou and I will bee man and wife within a Murder.
year, and shortly after hee disparted his wife, and rid her out of the way,
and in what case then stood I?

Case 26.

It was the opinion of three Judges, that this Action will not lye, for Charge of an
saying, Now that pocky drab doth wear a Scarf about her neck, to hide infectious dis-
her blanches, they are a pocky, and an unwholesome household, and I ease.
would not eat a bit, on which shee breathed, for twenty Nobles, and wo-
men that talk with her, put Aprons before their mouths. But if their com-
munication were about the French-Pox, it were otherwise. And yet if the
Husband of this woman were an Inn-holder, and lose his Guests by the
words, then the words were actionable. And there it was said to be ad-
judged to lye for this, Thou Whore, thou pocky Whore, Doctor Clay-
tons Whore, Mich. 44. 45. Eliz. Boddin and Jones. But that it will not
lye, for saying, Your Master hath lyen in Fullers Tub. Albeit hee averr, Fullers Tub.
that none lye there, but such as have the French-Pox.

Case 27.

It hath been adjudged to lye for this, I will justifie that Barnes is acces- Charge of
sary to the Burglary, for which K. D. was hanged. And that without any Burglary.
Averment that K. D. was hanged for such a Burglary. Trin. 9. Jac. B. R. Averment.
Barnes and Hunt. Indirect words
of charge.

Case 28.

It was agreed by the Judges, that this Action would lye for this, said of a Bankrupt.
Merchant, Hee is a Bankrupt, and fled beyond Sea for mony. And for Merchant.
this, said of an Attorney, He is an ignorant Attorney. Trin. 9. Jac. B. R. Attorney slan-
Trulock and Morrison. dered.

Case 29.

It hath been agreed, that this Action will not lye for this, Thou art a Hornsby,
Hornsby, and a Cuckoldly Knave. Trin. 9. Jac. Palmer and Palmer. Cuckoldly
Knave.

Charge of
Couzening.

Case 30.

It hath been adjudged, that this Action will not lye for this, Thou hast couzened the Earl of Hartford, as much as thou art worth. Trin. 9. Jac. B. R. Tuck and Kirton.

For this, Thou art a couzening Knave, and hast couzened all the Town of Coventry.

Case 31.

Mean-sworn.
Averment.
Strained my
Mare.

It hath been adjudged to lye for this. He is mean-sworn, with an Averment, that it is taken in the place for perjury.

So for this. Thou hast strained my Mare, with an Averment of the acceptance of the word in the Country.

Case 32.

Charge of
Robbery.

Words in-
scraine.

It was held by two Judges, that this Action will not lye for this. A. was robbed of twenty pound in Silver, and one hundred Marks in Plate, and Foord, and Anne Long had it, and, by God, will be hanged for it. Pasche 9. Jac Foord and King.

Case 33.

Charge of
Robbery.

It hath been adjudged, that this Action will lye for this, Thou art a Knave, and a Rascally Knave, thou didst set on me in the High-way, and didst take away my Purse from me, Innuendo Felonice] and I will be sworn to it. Stoner and Holland. B.R.

Case 34.

Charge of
Burglary.

A. came to a Justice of Peace, and informed against B. for Willemours, and wrote these words, A. doth charge B. that he did commit Burglary in breaking of my house; And it was adjudged actionable. p. 8. Jac. Per and Finch.

Case 35.

Charge of
Perjury.

Forsworn.

Perjured.

Coxe and Morton. 44, 45 Eliz. B. R. The Action was brought for these words, Thou art a false forsworn Knave, and that I will prove, for thou hast forsworn thy self against Peter Rumbal in the Hundred Court, and upon not guilty, and Verdict for the Plaintiff, it was adjudged against him, that the words were not actionable, for [forsworn] by it self, doth not import slander, as perjured doth, and because it was not shewed, that there was any cause in the Hundred Court between Rumbal and another, wherein he was produced a Witnesse, by which the word forsworn was induced, and so it might have been equivalent to perjured; for it might be in private between them upon an oath out of Court. that he might say he was forsworn. Yelvertons Rep. 27.

Case 36.

Slander of an
Attorney.

Shire and King, 45 Eliz. B. R. The Action was brought by an Attorney for these words, Thou art a Paltry Fellow, and thy credit is fallen, for thou dealest on both sides, and dost deceive many that trust thee. And upon error brought, it was affirmed, that the words were actionable, and shall be taken in Malam partem, for they sound to no other purpose, and yet he may be on both sides as an Arbitrator. Yelvertons Rep. 32.

Case 37.

Charge of an
endeavour to
Murder.

Sir John Harpur and Beaumont. Hill 2. Jac. B. R. The Action was for these words, I was at Sir John Harpurs house, and John Harpur his Son drew me forth to see a Gelding, and then Thomas Beaumont did throw his Dagger at me twice, and thrust me thorow the Britches twice with his Rapier to have killed me; All this was done by the instigation of Sir John Harpur, and I can prove it. And it was adjudged for the Plaintiff that the words were actionable. Yelvertons Rep. 58.

Case 38.

Case 38.

Scile and Hape. Mich. 3. Jac. B. R. The Action was brought for these words, Thou hast most perjuredly presented me at the Visitation against a Sidel-man of a Parish, one sworn to doe his office truly, and to present the offences within the Parish. And the Judges opinion seemed to bee against the Action,

Charge of Perjury against an Officer.

1 Because he did not charge him precisely with perjury, but by way of similitude [perjuredly] as if one say, Thou hast taken my money thiefishly out of my purse; or, thou hast dealt treacherously with J. S. these words are not actionable. But to say, Thou hast dealt traiterously with the King, perhaps may be actionable.

Adjective words.

2 Because the Plaintiff did not shew what presentment he made at the Visitation, so that it might appear, that what he did, was within the compass of his office, for if he had presented any thing out of his office, as that one was a thief, or the like: there is no perjury, albeit it be false. Yelvertons Rep. 72.

Case 39.

Harris and Dixon. M. 3. Jac. B. R. The Action was brought for these words, Francis Harris hath procured and suborned one Smith to come thirty miles to commit perjury against his Father, before my Lord of Winchester, and gave Smith ten pound to that purpose; upon not guilty, and a verdict for the Plaintiff: and it was moved, and so agreed by the Court, that the words were not actionable; for it doth not appear, that my Lord of Winchester had any Commission, or authority to take an Oath, and then it cannot be perjury, for he is not a Judge known to be competent to give an Oath without a Commission. Yelvertons Rep. 72.

Subornation of Perjury.

Case 40.

Heak and Molton. Trin. 4. Jac. B. R. An Action was brought for this, Thou art a common Barreter, and deservest to bee hanged; and by the Court it was agreed, that the words were not actionable, for the offence is only finable, and to be bound to the good behaviour, As to say, that a man hath broken the Peace, or is a common Rogue, or a common hunter of Deer, or a common breaker of Forests, is not actionable.

Common Barreter.

Breaker of the Peace and Forests.

Rogue.

Hunter of Deer

So to say, I. S. would have killed me. But to say, He did lye in wait to kill me, is actionable. So, He prepared Poyson to kill I. S. but for this, He deserveth to be hanged. these are too general and uncertaine to ground an Action upon; and thereby, Fenner Justice, it was said to be adjudged to lye for this, Thou art as very a thief as any in Warwick Gaol, with an averment, that there is such a thief in particular. Yelvertons Rep. 99.

Intent of Murder

Indeavour of Murder.

General and incertain word,

Case 41.

Action for these words, Master Toplite hath forged and counterfeited a Certificate to a Commission out of the Exchequer, and hath forged and counterfeited Mr. Birckets, and Mr. Savells hands, the Commissioners, and hath put their hands to it, by reason whereof he got a Verdict in the Exchequer, whereas otherwise he must needs have had the foyl. Upon not guilty it was found for the Plaintiff, damages ten pounds. And it was alledged in Arrest of Judgement, that the Action doth not lye, because it was not shewn, what Commission it was, nor in what Suit, so as the Defendant might give answer to it; but Judgement was given for the Plaintiff. Croc. 1 part last publisht. fol. 72.

Charge of Forgery.

Case 42.

Action for words, that the Plaintiff being a Minister, the Defendant said of him, That he had two Wives, to cause him to be deprived, upon not guilty, it was found for the Plaintiff.

Slander Spiritual of of a Minister.

Incontinency.

Heretick.

Cook moved in an arrest of Judgement, that the words were not actionable, for it is a spiritual fault, as to call one Heretick, &c. but it was answered, that for as much as the Plaintiff was a Minister, this is a defamation, and cause of deprecation, if true, yet Judgement was given against the Plaintiff. Croo. 1. part last publisht. fol. 94.

Case 43.

Couzening
Knave.Words general
and incertain:

Action for these words, (Thou art a Couzening Knave, thou hast couzened mee of twenty pound at such a place, and such a man of twenty pound, and there is never a George in England, but hee is a couzening fellow) upon not guilty, it was found for the Plaintiff, and it was ruled, that the Action lieth not, for Wray said, they are too general to bear an Action; and a man is to suffer no plague or losse for those words, if they were true, and one Egletons Case was cited to be adjudged, Thou art a couzening Coroner, for thou hast couzened J. S. of his Land; no Action lieth, and Wray said, that in a Writ of Error between Warker and Middlemore, which doth depend in the Exchequer-Chamber, Action for these words, Thou art a Couzener, for thou hadst mee to Coventry, and didst couzen mee of eighty pounds; Judgement was given for the Plaintiff in the Queens Bench; but it was never moved in that Court, for if it had, they would not have given Judgement. Nota. Trin. 30. That Judgement was reversed in the Exchequer-Chamber. Croo. 1. part last publisht. fol. 95.

Case 44.

Charge of
stealing of a
horse.Slander by
Deeds.

Action upon the Case. And declares that the Defendant was a Justice of Peace, in the County of N. and whereas the Plaintiff was a Loyal Subject, &c. the Defendant maliciously intending to deprive him of his good name and fame; did direct his Warrant, and shews it in certainty, &c. to divers Constables to attatch him, alledging, hee was accused of the stealing of the Horse of A. B. by reason whereof hee was arrested, till hee put in bond to appear, &c. ubi re vera, hee was never accused, nor did steal the horse; the Defendant did know him to be guiltlesse, by reason whereof hee was greatly discredited, upon non culp. pleaded, it was found for the Plaintiff; and it was held by Clench and Gawdy, the Action was maintainable; if a man be accused to a Justice of Peace, for an offence, for which he causeth him to be arrested by his Warrant; although the accusation be false, yet hee is accusable; but if the party be never accused, but the Justice of his malice, and own head, cause him to be arrested, it is otherwise; and they commanded Judgement to be given for the Plaintiff. 14. H. 8. Croo. 1. part last publisht. fol. 130.

Case 45.

Charge of
Treason.

Action for words, for calling him a rebellious and traitorous Knave, after verdict for the Plaintiff, it was moved in arrest of Judgement, that the Action did not lye; for rebellious may be upon a Proclamation of Rebellion out of Chancery, or other Courts; and when traitorous and rebellious, are coupled together, they are of the same sense, Curia; for the words, rebellious Knave, Action lieth not, but traitorous being joyned with it, Action lieth; and the Plaintiff had Judgement. Croo. 1. part last publisht. 171.

Case 46.

Charge of an
agreement to
kill a man.

Action for these words, Tibbot and one Gough agreed to have hired a man to kill mee, and that Gough should shew mee to the hired man, to kill mee; and upon not guilty, it was found for the Plaintiff; it was moved in Arrest of Judgement, that an Action lieth for these words, and so held Gawdy; for it is not alledged, that any Act was done by the Plaintiff, nor
any

any thing put in re by him. but only a Communication between him and G. but otherwise it is, if the words had been, Hee hath hired a man to kill mee; Fenner contra, for it is an ill part for which hee might be bound to his good Behaviour. Wray was absent, but afterwards Wray being present, hee agreed with Fenner, and Judgement was given for the Plaintiff, against the opinion of Gawdy. Croo. 1. part last publisht. fol. 191.

Case 47.

Action for these words, Thou wert laid of the French-Pox, adjudged actionable, and Fenner said, it was adjudged in this Court, that for these words, Thou wert laid of the Pox, Action did lye, for it cannot bee intended but of the French-Pox. Croo. 1. part last publisht. fol. 214.

Pox.

Case 48.

Action for these words, Thou art a mutinous and seditious man, and didst procure the Queens Subjects to sedition. Gawdy, the words are not actionable; for it is not said, hee moved them to sedition against the Queen; and to this opinion the other Justices did incline, but this was only upon motion. Croo. 1. part last publisht. fol. 214.

Charge of Sedition.
Adjective words.

Case 49.

Action for these words, Thou hast sought the blood of thy Husband and wast his death; for if thou hadst been an honest woman, hee had been alive yet. And avers in fact, that her Husband was killed; it was moved, the Action lyeth not, for it is not said, shee did any unlawful act, and it was cited to be adjudged. Mich. 18. & 19. Eliz. that for these words, Thou wert the death of J. S. Action lyeth not, for it may be by grief; but it was ruled here, that the Action lyeth, for they shall be taken to be spoken in malam partem, and it was adjudged for the Plaintiff. Croo. 1. part last publisht. fol. 239.

Charge of Murder.

Averment.

Case 50.

Action for these words. (ff.) Aid mee to Stoner, for I have Felony to lay to his charge, for hee would have robbed mee. After verdict for the Plaintiff, it was alledged in arrest of Judgement, that the words are not actionable, for perhaps the saying, I have Felony to lay to his charge, of themselves are actionable; but when hee saith further, for hee would have robbed mee, they prove no Felony, but extenuate the first words, and shew what hee did intend, and the last words are not actionable; for to say, One would have robbed mee, an Action lyeth not, without shewing some overt act put in ure, which is Felony, or cause to binde one to his good Behaviour; for though hee had an intent, peradventure, hee repented of it, and did no evil act. And Lea cited a Case adjudged in 27. & 28. Eliz. inter Turtle & Osborne, that these words (scilicet) thou wouldest have murdered mee, are not actionable, and for this cause the Court inclined, that an Action did not lye. Sed adjournatur. Croo. 1. part last publisht. fol. 250.

Charge indirect.

Intent or will to do a Felony.

Case 51.

Action for words (ff.) My Lord President of the North shewed Mr. Stapleton his hand set to a Book, whereby hee had consented to the late Rebels of the North, but by the means of Mr. Fairfax, my Lord President was perswaded, and the matter suppressed; after verdict for the Plaintiff, it was moved in arrest of Judgement, that an Action lay not, for it is not said, that hee consented to the Rebels, but that his hand was set to a Book, whereby hee did consent, &c. but sheweth not who set to his hand, it might have been done by another. Also it is not said, hee consented to them in their Rebellion, but the consent may be in some other matter; not that hee knew they were Rebels. Also it appeared not in what they were Re-

Charge of Treason.

Rebels,

Rebels,

hels if in Treason, or only upon proceſſe of Rebellion; Cura contra in omnibus, for it cannot be his hand, if hee himſelf ſets it not to the Book, but another may write his name; and when hee ſaid, hee conſented to the Rebels, and ſhewed not any certain perſon, this cannot be otherwiſe intended, but that hee conſented to all the Rebels in their Rebellion; but if hee had ſaid, That hee conſented to A. and B. which were Rebels; this peradventure may be intended, that hee conſented to them in ſome other matter, as it was ruled, 26. Eliz. in *er Brown & Little*, where the words were, Hee was confederate with Campian the Jeſuite; no Action lay, for it is not ſaid, hee knew him to be a Jeſuite, nor in what matter hee was confederate with him; and in this term it was adjudged for the Plaintiff. Croo. 1. part laſt publiſht. fol. 251.

Case 52.

Charge of
Theft.

Action for theſe words, Mr. Winckfield, you never thought well of mee, ſince Graves did ſteal my Lamb; adjudged actionable, although it was alledged in arreſt of Judgement, that it was not a direct affirmation that G. R. did ſteal it. Croo. 1. part laſt publiſht. fol. 289.

Case 53.

Inn-holder.

Infectious diſ-
caſe.

Action for words, and declared that the Plaintiff was an Inn-holder in D. the Defendant ſpoke theſe words, Thy houſe is infected with the Pox, and thy Wife was laid of the Pox, adjudged actionable; for it ſhall be intended the great Pox, and if it were the ſmall Pox, yet they were actionable; for it is a diſcredit to the Plaintiff, and gueſſe would not reſort thither, and it was adjudged for the Plaintiff, and fifty pounds damages given. Croo. 1. part laſt publiſht. fol. 289.

Case 54.

About Perjury.

Action for theſe words, Thou art falſly forſworn in Bell Court, Innuendo, a Court Baron held at Bell, & per Curiam, with this Innuendo, the Action did lye, otherwiſe not. Croo. 3. part laſt publiſht. fol. 297.

Case 55.

About Perjury.

Action for theſe words, Thou art forſworn and perjured; the Jury found a ſpecial verdict; that the Defendant, ſaid the Plaintiff, was a forſworn fellow, to whom the Plaintiff ſaid, will you ſay I am perjured; the Defendant ſaid, yes, if you will have it, and the Court conceived, that upon this matter an Action did not lye, and it was adjudged for the Defendant. Croo. 1. part laſt publiſht. 297.

Case 56.

Justice of
Peace.

Action for words, for that whereas the Plaintiff was a Juſtice of Peace, the Defendant ſaid, You do openly maintain and countenance the worſt people againſt Gods Laws, and the Queens; after verdict it was moved, that an Action did not lye for theſe words, for it is not ſhewn who theſe people are which hee intended, were the worſt people, viz. Rogues, Hereticks, or the like; and it is not ſhewn that hee did know them to be ſuch perſons, nor in what hee did maintain them, and of that opinion were Fenner and Clench, but Popham Chief Juſtice contra, for they found to his diſcredit, and hee ſaid it was adjudged upon good deliberation: in a Caſe between Sir Henry Portman and Stowell, that for theſe word, Thou maintainſt ſuch a Suit, an Action did lye, for maintainance is unlawful and odious, and it is here alledged to be ſpoken maliciously, and cannot be intended, but hee maintained them in their naughtineſſe, and afterwards. Mich. 35. & 36. Eliz. the Caſe was moved again, and it was held by the whole Court that the Action did not lye, for the words are too general to maintain an Action. Croo. 3. part laſt publiſht. fol. 297.

Charge of
Maintainance.

Caſe

Case 57.

Action for these words, Thou art a perjured Knave, for thou swarest this day at the Leet, that I bake bread in my house, where I did not; after verdict for the Plaintiff, upon not guilty pleaded it was moved, that an Action lay not for these words, for perjury cannot be a Leet whereof the Law takes any notice; but all the Court held that the words were actionable, for although it be not a perjury punishable by the Statute of 5 Eliz. yet it is a discredit for which an Action lies, wherefore it was adjudged for the Plaintiff. Croo. 1 part last publishr. 709.

Charge of Perjury.

Case 58.

Action for these words, Jo. Leverage (Innuendo the Plaintiff) would have robbed the house of I. S. if I. D. would have consented unto it; he perswaded I. D. unto it, and told him hee would bring him where hee should have money enough. After verdict for the Plaintiff, it was moved that these words were not actionable, for there is not any act done by the Plaintiff whereby he can be called in question; nor is it such a slander whereby he can have any prejudice; but all the Court held them to be words of great discredit and slander, and that the Action will lie, and it was adjudged for the Plaintiff. Croo. 1 part last publishr. 710.

Charge of Robbery.

Endeavour.

Case 59.

Action upon the Case for these words, That the Plaintiff was a forsworn Knave, the Plaintiff demanding of him where he was forsworn, he answered, In Ilston Court (Innuendo a Court Leet there holden) and it was moved that an Action lies not for these words; for the calling one forsworn Knave, (unless he saith in Court,) is not actionable, which was agreed per curiam. Then the Court here cannot know that Ilston Court was any Court of Record, and the Innuendo cannot help that which was imperfect, and therefore Williams said it was adjudged, that for saying, Thou wert forsworn in White Church Court, an Action lay not; but note this Case was shewn to the Court in writing, 28 Eliz. between Hern and Hix, and the opinion of the Court there was, that the Action lay, and the Defendant gave to the Plaintiff three pound, and he released his Suit, and no Judgement was given; and all the Court here held, that the Action will lie, for this Action is given by reason of the discredit of such words amongst the Neighbours, and when he said, That hee was forsworn in such a Court, it cannot be intended but that it was a Court of Justice, and a president was shewn. Pasche, 37 Eliz. Rot. 370. in the Queens Bench, between Wildham and Copman, that for these words, Thou art a false forsworn man, and wert forsworn in such a Court; adjudged that the Action lay, Croo. 1 part last publishr. 720, 721.

Charge of Perjury.

Innuendo.

Case 60.

Action for these words, Thou hast stolen my Mare, or consentest to the stealing of her. The Defendant pleaded not guilty, and found against him, and after verdict it was moved, that an Action lay not for these words, for they are in the disjunctive, and as to the last words it lies not, for he may be said to be consenting, because he did not contradict it; and of that opinion were Fenner and Clinch, being only in the Court, and awarded. Quod querens nil capiat per billam. Croo. 1. part last publishr. 780.

Charge of Theft.

Words inaccurate.

Case 61.

Action for these words, Thou art a forsworn Bayliff, and wert forsworn this day; after verdict for the Plaintiff upon not guilty pleaded, it was moved in arrest of Judgement that an Action lies not for these words, for he doth not shew that he was forsworn in any Court; it is not

Thou art forsworn.

also shewn, that hee was a Sworn Bayliff at the time of the speaking, and the opinion of the Court was, that the Action lay not, upon the first reason principally. Croo. 3. part last publishr. fol. 788.

Case 62. *Plaintiff v. Defendant.*

Bankrupt.

Merchant.

Action upon the Case for words; whereas hee was of good name, &c. & per multos annos jam retroactos fuit Mercator, and used the Trade of Merchandizing, tam infra Regnum, quam extra, that the Defendant spake of him these words, Thou art a beggerly Knave, and a Bankrupt, and thou art not able to shew thy face. It was moved, that an Action lay not for these words, unlesse it had appeared by the Declaration, that he was a Merchant at that time, for being spoken of a Gentleman, or any who used not the Trade of Merchandizing, an Action lyes not, and of that opinion was the whole Court; but the Question was, whether by alledging, that hee used the Trade of a Merchant, per multos annos jam retroactos, it shall be intended, that hee was a Merchant at the time of the words spoken, and the Court seemed to doubt thereof, because it is not precisely alledged, for it may be, hee used that Trade for a time, and left it afterward, wherefore they would advise thereof. Croo. 3. part last publishr. 794.

Case 63. *Plaintiff v. Defendant.*

Charge of Murder.

Repugnant words.

Action for these words, Thou hast killed my Wife, after verdict for the Plaintiff, upon not guilty pleaded, it was moved, that an Action lay not for these words, because he doth not say, with what intent he killed her, violently, or otherwise, and hee doth not aver, that his wife is dead, but notwithstanding, it was adjudged for the Plaintiff, for it is to be intended, if the contrary be not shewn by the Defendant, that his wife is dead, and it shall be taken in the worst sense, viz. violently. Croo. 1. part last publishr. fol. 823.

Case 64. *Plaintiff v. Defendant.*

Charge of couzening. Officer.

Action for these words, Thou art as couzening a fellow as any is in the Country; the last time thou wert Under-Sheriff, as now thou art, thou didst serve an execution for a neighbour of mine, and didst keep the money in thy hand; hereupon the Defendant demurred, and after argument at the bar by Snag, for the Plaintiff it was adjudged, maintained, that the words were not actionable, for calling one couzening fellow, Action lieth not, then the last words be not actionable; for it is not exprest how long time he kept the money in his hands; and it may be, hee kept it only but until return of the Writ, or by assent of the party, Plaintiff; wherefore it was adjudged for the Defendant. Croo. 1. part last publishr. fol. 854.

Case 65. *Plaintiff v. Defendant.*

Rogue and Thief.

Action for these words, Thou art a Rogue, and a Thief, after verdict, it was moved in arrest of Judgement, that an Action lyes not for these words, for they are too general, but the Court held, that for the word Thief, it is maintainable, unlesse it be coupled with other words, which proves it to be no felony intended; wherefore it was adjudged for the Plaintiff. Croo. 1. part last publishr. fol. 857.

Case 66. *Plaintiff v. Defendant.*

Charge of Theft. Officer.

Action for these words, hee (Innuendo the Plaintiff) is not worthy the office of a Constable; for hee and his company, the last time hee was Constable, stole five of my Swine, and eat them, after verdict for the Plaintiff, it was moved by Yelverton, that the Declaration was not sufficient, for the words, hee is not worthy, &c. may be spoken of any other, and the Innuendo will not help it; also hee doth not say, that hee spake the words in presentia & auditu aliorum, and if it were otherwise, it is not any slander; but all the Court held, that the Action will lye; for hic & ille make

make a demonstration, what person he intended; and it is also alledged, that he spake de querence, those words, &c. The words also, quod palam & publice promulgavit, imply, quod fuit in presentia & auditu, &c. for it is not palam, unlesse it be in presentia & auditu aliorum, wherefore it was adjudged for the Plaintiff. Croo. 1. part last publisht. fol. 861.

Cafe 68.

Action for words, and declares that the Defendant spake these words in Welch (reciting them particularly) signifying hec anglicana verba, thou hast murdered my Wife, after verdict, and Judgement for the Plaintiff, error was brought and assigned in hoc, that it is not averred, that the words were spoken in the company of Welsh-men, or of such who understood the Welch tongue, but it is alledged, that they were spoken in presentia & auditu quam plurimorum subditorum Domine Regine; and the Action was brought in the County of Monmouth, which was once parcel of Wales, but was now an English County; and all the Justices and Barons held, that for this cause it was erroneous, for it shall not be intended, that any there understood the said tongue, unlesse it had been shewn, and then it was not any slander, no more than if one spake slanderous words in French or Italian, an Action lyes not, unlesse it be averred, that some there present understood those languages; as it was held in the Case between Johns and Daux. Mich. 38. & 39. Eliz. in B. Regine, but because the damages were found to fifty pound, and if the Plaintiff should begin de novo, he might not have peradventure so great damages, they moved him to accept of ten pound, and to make an end without further proceedings; and so it was done, and no judgement entered. Croo. 1. part last publisht. fol. 864.

Charge of Murder in Welch words.

Cafe 69.

Action for these words, Spoken of the Plaintiff, His Boy (Innocent, one Ambrose Latham the Plaintiffs Wives Son) hath cut my purse, and hee, knowing it, hath received it, it was moved, that an Action lay not for these words, but adjudged that it was maintainable. Croo. 1. part last publisht. fol. 877.

Cur-purse. Charge to receive stolen goods.

Cafe 70.

Action for these words, Thou art a Rebel, it was demurred upon Declaration, and without Argument adjudged for the Defendant, that the words be not actionable. Croo. 1. part last publisht. fol. 878.

Rebel.

Cafe 71.

Action for these words, Thou art a pocky Knave, get thee home to thy pocky Wife, her Nose is eaten with the Pox; it was moved after verdict, that the words were not actionable, for it shall not be intended by them, that he is infected with the French Pox, and otherwise the Action lyes not; but all the Court held the Action was maintainable, for the words cannot be otherwise intenable, but that he hath the French-disease; for it is conceived, he is accused to have the same disease, which his Wife hath, and that the words purport, that he hath the French-disease; by saying that his Wives Nose is eaten with them, wherefore it was adjudged for the Plaintiff. Croo. 1. part last publisht. fol. 878.

Charge of an infectious disease.

Cafe 72.

Action for these words, Thou hast cut my purse, therefore I charge thee with Felony, after verdict it was adjudged, that the Action lay not, for to say, thou hast cut a purse, without saying feloniously, it appears not, that he had committed any Felony, wherefore not actionable. Croo. 1. part last publisht. fol. 890.

Charge of Felony. Cur-purse.

Cafe 73.

Action upon the Case, for these words used of the Plaintiff by the Defendant to one Streets, Go follow Suit against Willymore (Inquinto the Plaintiff)

Charge of
Theft.

Plaintiff) for stealing thy two Kine, and hang him, or I will hang thee, and on his further malice offered unto him, if hee would exhibit a Bill of Indictment for stealing the Kine, that he would procure him the value of two Kine, and that hee exhibited a Bill against the Plaintiff, &c. after verdict for the Plaintiff upon not guilty pleaded, it was moved that the Action was not maintainable: But Fenner and Yelverton (being only in the Court) held, that the Action was well brought for the bidding him follow suite against him for stealing thy Kine, and hang him, imports as much as that hee had feloniously stoln them, otherwise hee could not hang him, wherefore it was adjudged for the Plaintiff, Croo. 1. part last published fol. 904.

Case 73.

Charge of
Perjury.

Action for these words; thou art a forsworn Knave, and that I will prove, for thou wast forsworn in the hundred Court (Innuendo Stiveron hundred Court) after verdict for the Plaintiff it was moved, that the Action lay not; for it doth not appear that it was a Court of Record, nor any Court where of the Justice should here take any cognisance, and of that opinion was the whole Court. Croo. 1. part last published fol. 905.

Case 74.

Traitor.

Action for these words, to J. S. the Plaintiffs servant, thou hast a Traitor to thy Master (Innuendo the Plaintiff) adjudged that the Action lay, it being moved after verdict in arrest of Judgement. Croo. 1. part last published fol. 906.

Case 75.

Charge of In-
contingency.
Spiritual Slan-
ders.

Trin. 11. Jac. B. R. Mathew versus Crashe. In an Action of the Case for these words, Thou art a Whore-master, for thou hast layen with Browns wife, and hadst to doe with her against a chaire, and set forth that by reason thereof hee lost his marriage, &c. ad damnum, &c. And it was objected, that the words are not tryable here, but examinable in the Ecclesiastical Court, and therefore not actionable. But it was answered, and agreed by the Judges, that the Temporal loss makes it actionable as in the Case of a woman, as where one is called a Bastard alone; this is determinable by the Ordinary; but if he add further to entitle himself to be heir, or shew some possibility of being heir, this may make the words actionable. Bull. 2. part 90.

Case 76.

Slander of a
Title
Hindrance of
preferment.
Bastard.

Brian Nelson versus Staffe. Pasche. 15. Jac. B. R. An Action was brought in Cor. Banco, that whereas Thomas Nelson was, and yet is seised of Land in fee to the value of one hundred pound a year, and married to Elizabeth, and had issue between them the Plaintiff. And whereas there was communication between the Plaintiff and Mary Civald, concerning a marriage between them, and hee was offered with her six hundred pound; that the Defendant of purpose to scandalize him, and to hinder him of his said marriage, speaking of the Plaintiff with J. S. said these words of the Plaintiff, hath that Bastard Brian Nelson caused you to be arrested; is that all the spight the Bastard can do you. By reason of which words he lost his marriage, &c. Upon not guilty it was found for the Plaintiff, and damages given, and a writ of error brought, and a Judgement given for the Plaintiff, and so the first Judgement was affirmed, and agreed, that the words were spoken affirmatively, and not by way of Interrogation, and that the Action was given for the stain of his blood, and his special damage. And that a man may, perhaps have this Action, albeit he have no Land at all. Croo. 2. 412.

Case 77.

Trin. 15. Jac. B. R. Sr. John Tasburge versus Day. This Action was brought for this, that whereas hee was a Justice of Peace, &c. and that hee

hee upon the seventh of March, and long before seized in fee of the Advowson of Sandcroft in the County of S. and intended to sell it towards the payment of his debts, and the Defendant knowing of it, and intending to Slander him in his Religion, &c. and to Slander his Title to the Advowson, and hinder the sale thereof, the same day having speech with divers persons about his Title to the Advowson, and about his Religion, spake these words, True it is, that Sir John Tasburge was the true and undoubted Patron of Sandcroft, but now hee hath lost that Patronage and presentation by being a Simonist and a Recusant, both which I will prove him to be. By reason whereof hee was hindered in the sale of his Advowson. And upon not guilty pleaded, and a verdict for the Plaintiff, it was adjudged for the Defendant, because it doth not appear hee was about the sale of it, and so had any special damage by it, and for the rest of the words they were held not Actionable, Croo. 2. 484.

Slander of a Title.
Of an Officer.

Case 78.

Paſche. 13. Car. B. R. Humfreys and Studfields Case. In this Action for words, the Plaintiff declared, that hee was heir apparent to his father, and also to his younger Brother, who had purchased lands, but had no Issue, either male or female, and that the Defendant, with an intent to bring him in disgrace with his father, and also with his younger Brother, and thereby to make the father and younger Brother to give away their Lands from the Plaintiff, did maliciously speak these words of him, Thou art a Bastard, which were spoken before the father and the Brother; by reason of the speaking of which words, the father and younger Brother did intend, and afterwards did give their Lands from the Plaintiff: and by the opinion of the whole Court it was adjudged, that the words were Actionable, and Judgement entered accordingly. Godb. Rep. 451.

Hindrance of
possession.

Hee is a Bastard.

Case 89.

Paſche. 15. Jac. B. R. Cooper versus Smith. This Action was brought for this, viz. Waterman and thou [Innuendo the Plaintiff] hast killed thy Masters Cook [Innuendo, &c.] and I will bring thee in question for thy life; And after Verdict for the Plaintiff, and motion to arrest the Judgement for the Incertainty of the words, for that it did not appear, who was his Master, or that his Master had a Cook, it was adjudged for the Plaintiff, and said, that albeit the Innuendo cannot make a thing uncertain, certain, but shall serve only as a predict, yet the words import, that hee had a Master, and that his Master had a Cook, &c.

Charge of
Murder.

Incertainy.
Innuendo.

And another Action was brought for these words, viz. thou hast sacrificed thy Childe to the Devil, and adjudged that the words were Actionable. Pophams Rep. 128. Bridgmans Rep. 60.

Charge of
Murder.

Case 80.

Mich. 44. 45. Eliz. B. R. An Action was brought for this, Thy Father said thou hast murdered thy husband [Innuendo such a man by name] I am defunct, and averred, ubi re vera, her Father spake no such words. And Verdict for the Plaintiff upon not guilty pleaded, and it was moved in arrest of Judgement, because it was not averred, that the husband was dead at the time of the words spoken, and divers Cases cited to the purpose, Yelvertons Rep. 20, 21.

By Report.
Averment.

Case 81.

Mich. 23. Car. B. R. Person and Dawson. An Action was brought for this, your Son [Innuendo your Son William] stole a Horse, and sold him for ten pound, and a verdict for the Plaintiff, upon a not guilty, and after many motions to arrest the Judgement, it was given for the Plaintiff. Silles Rep. 46.

Charge of
Theft.

Case 82.

Slander in a
court of Ju-
stice.

Pasche, 33 Eliz. B. R. Buckley versus Wood. The Plaintiff in this Action declared, that whereas the Defendant did exhibit a Bill against him in the Star-Chamber. 30. Eliz. containing (inter alia) that hee was a rōzeler of Thebes, Murderers, and Pirates, &c. and recited a great part of the Bill, that afterwards the Defendant at P. in the County of Salop. 7. Maij. 31. Eliz. Said hee would iustifie his Bill to be true in every part, &c. The Defendant pleads, that the seventh of May at Westminster in the County of Middlesex, he was demanded of the Lord Chancelour, if his Bill were true, and he said it was true in all points. Absque hoc, quod dixit predicta verba, before or after the said day, Aliter vel alio modo. And upon this the Plaintiff did demur; in this Case, albeit it was objected: For the first thing, that it was in a course of Justice, and that his words after were justifiable, and that the declaration containing this, that he had exhibited his Bill inter alia, was not good, but that he ought to recite the whole Bill; yet it was adjudged for the Plaintiff, for that they were matters not examinable in that Court, and especially because hee had spoken of them after in the Country. Croo. 1. part last publishr. 230. 247.

Pleading.

Case 83.

Strained a
Mare.

Action for these words, Coles hath strained a Mare, Innuendo carnaliter cognovit equam; the Jury found, that the Defendant spoke the words, C. hath strained a Mare, meaning that carnaliter cognovit, &c. And upon these words the Plaintiff had Judgement, although it was alledged, that the words in themselves had no sense: And the Innuendo will not help the matter, but only denote the person; but because the verdict was found precisely, that this was his meaning, and it is a phrase of the Country, it was adjudged for the Plaintiff. Croo. 1. part last publishr. fol. 250.

Innuendo.

Case 84.

A. hath strain-
ed a Mare.

Mich. 33. & 34. Eliz. B. R. Cole vers. Havilland. This Action was brought for these words, Coles hath strained a Mare, Innuendo, Carnaliter cognovit equam, and upon issue joyned, &c. the Jury found the words, and the meaning thereof to be as was declared, and Judgement was given for the Plaintiff. Croo. 1. part last publishr. 250.

Case 85.

Scaudalum
Magnatum.

The Bishop of Norwich against Pricker. Action de Scandalis magnatum, brought for these words, viz. You (predictum Episcopum Innuendo) have writ a Letter to mee, which I have to shew, which is against the Word of God, against the Queens authority, and to the maintainance of superstition, and that I will stand to prove against you. And the Plaintiff recovered five hundred marks damages. Croo. 1. last publishr. 2.

Case 86.

Endeavour to
burn a house.

An Action was brought for these words, A. did wrap Gun-powder in a peece of Tow, and laid it under my Window, and put fire to it, minding to burn my house. And the Plaintiff had Judgement. Croo. 1. part last publishr. 6.

Case 87.

Bankrupt
Knave.

Griffith against Morrison. An Action was brought for these words, Where is that Bankrupt Knave? where is that Pillory Knave? And the Plaintiff had Judgement. Croo. 1. part last publishr. 26.

Case 88.

Hee maintrains
Pirates.

Morgan versus Kiffe. Hill, 9. Eliz. An Action was brought for these words, A. did maintain, victualled, and help to let go certain Pirates contrary to the Law of the Realm, and Proclamation made. And it was adjudged for the Plaintiff, that the words were actionable. And there it was
Iard,

said, it had been adjudged to lye for this, Hee maintained Theeves. Between Lea and Penmiltone.

Case 89.

An Action was brought for this, Thou hast sitten upon the Pillory. And adjudged not to lye. 29. 30. Eliz. B. R. Croo. 1. part last publisht. 62.

Case 90.

Prowse versus Cary. Pasche. 30. Eliz. B. R. An Action was brought for this, Thou hast procured false witnesses to swear in such an Action; and the Plaintiff had Judgement. But if the words had been, You brought in false witnesses. It had been otherwise. Croo. 1. part last publisht. 93.

Charge of Subornation of Perjury.

Case 91.

Mich. 36. 37. Eliz. B. R. Weeks Case. Action for these words, Week assaulted mee, and others, to have robbed us, but wee were too strong for them, and escaped. It was adjudged actionable; and agreed to lye for this, J. S. lay in wait to do a Robbery, or Murder, although no Felony be done. Croo. 1. part last publisht. 349.

Charge of Attempt, and Endeavour of Robbery.

Case 92.

The same year B. R. Lyne versus Backhouse. Action for these words, Hee hath beateen mee, and taken away my purse, and twenty shillings in money. It was held per curiam, that the words are not actionable, for it may be intended, he took them as a Trespasser, for he doth not charge him with Felony. Croo. 1. part last publisht. 353.

Charge of Robbery. Doubtful words.

Case 93.

Pasche. 37. Eliz. B. R. Jinkinson versus Maine. Action for these words, The Plaintiff deserved to have his ears nailed to the Pillory. Adjudged that the Action lyes. Croo. 1. part last publisht. 384.

Indirect charge.

Case 94.

Pasche. 39. Eliz. B. R. Goodale versus Castle. Action for these words, Thou art a common Filcher, companion of cut-throats, and a Forger of Writings; It was agreed, for all the words but the last, no Action will lye, by two Judges it will lye for the last words. Croo. 1. part last publisht. 554.

Filcher. Cut-throat.

Case 95.

Pasche. 39. Eliz. B. R. Ausly versus Mason. Action for these words, Thou hast made a forged Bond, and I will prove it, upon not guilty plea, a verdict for the plaintiff, a motion to arrest the Judgement, it was adjudged for the plaintiff. Croo. 1. part last publisht. 554.

Charge of Forgery.

Case 96.

Mich. 39. & 40. Eliz. B. R. Pollard and his wife versus Arishaw. Action for these words, Thou art a Whore, and J. S. hath the use of thy body; The Court is good for thee. After verdict, and motion to stay the Judgement. It was adjudged for the Defendant, and that the words were not actionable. Croo. 1. part last publisht. 582. Goldsb. 1172.

Charge of Incontinency.

Case 97.

The same Term and Court. Harrisons Case. Action for these words, Thou hast forsworn thy self at London, and there it appeareth upon Record. Upon a Demurrer it was ruled, that it will lye. Croo. 1. part last publisht. 583.

Charge of Perjury.

Case 98.

The same Term, and Court. Redferne versus Tod. Action for these words, Hee should have been hanged for a Rape, but it cost him all the money in his purse. After verdict, and motion to arrest the Judgement, it was adjudged for the Plaintiff. Croo. 1. part last publisht. 589.

Charge of a Rape. Words indirect.

Case 99.

Charge of
Perjury.

The same Term and Court. Shaw and Tompson, Action for these words, Thou art a forsworn Knave; and I will prove thee forsworn in the Spiritual Court; after verdict, and motion to arrest the judgement for the words, it was objected they were not actionable no more than these. Thou wert forsworn in Whit-Church Court, it was adjudged for the Plaintiff, Croo. 1 part last publisht. 669.

Case 100.

Charge of Per-
jury.

The same Term and Court, Action for these words, The Plaintiff hath forsworn himself, [Innuendo before the Justices of Assize, &c.] and the whole Court held, That the words were not actionable, for the words are not sufficient, and the Innuendo will not help it; wherefore it was adjudged for the Defendant, Croo. 1 last publisht, 669.

Case 101.

Rebel.

The same Term and Court, Wells against Hemmerson, Action for these words, Thou art a Rebel, and no true Subject; after Verdict, and Motion to stay Judgement, it was adjudged for the Defendant, that the words were not actionable, Croo. 1 part last publisht, 672.

Case 102.

Charge of
swearing
false mo-
ney.

Mich. 40 Eliz. B. R. Blake versus Stanley, Action for words, Thou art a Coyner of false Mooney, and I have Money to shew which thou coyneest; after verdict, and motion to stay the judgement, it was adjudged for the Plaintiff, Croo. 1 last publisht, 679.

Case 103.

Thou keepest
a Bawdy-house

The same Term Co. B. Action for words, viz. That hee keeps a Bawdy-house. And ruled, that the Action lies not, for by the Common Law he is not punishable, but by the custom of London; and therefore this Action might be tried in the Spiritual Court, Croo. 1 part last publisht, 673.

Case 104.

Charge of
Murder.

Rasche 41 Eliz. Co. B. Slade versus Allen, Action for these words, Thou art a Murderer, and a bloody Fellow, and I am afraid of thee. Upon Demurrer adjudged actionable, Croo. 1 part last publisht, 672.

Case 105.

Charge of
Burglary.

Jan. 44 Eliz. B. R. Brown versus St. John, Action for these words, Thou have committed Burglary in breaking his house [Innuendo the house of one Bennet] and stealing of his goods. After verdict, upon motion to arrest the Judgement, it was adjudged not actionable, for the breaking of the house may be but Trespass, he doth not say whose house he brake, and so it is altogether incertain, Croo. 1 part last publisht, 689.

Case 106.

Charge of Fe-
lony.
Receipt of
stolen goods.
Cur-purse.
Incertain
words.

The same Term and Court, Cox versus Humphrey. The Action was thus, Thy Boy [Innuendo Ambrose Latham the Plaintiffs Wives Son] hath cut my Purse, and thou hast received it knowing of it, and hast the Rings and Money that were therein, in thy hand, therefore I charge thee with felony. It was adjudged that the Action lay not, for it doth not appear that the Purse was cut feloniously, and then the receiving of the things and Boy is not felony; it was adjudged for the Defendant, Croo. 1. last publisht, 689.

Case 107.

Charge of
Receipt of
stolen goods.

The same Term and Court, Daws versus Bolton. Action for these words, Thou art a Knave, and hast received stolen Swine, and hast received a stolen Cow, and thou knowest they were stolen; upon not guilty, verdict for the Plaintiff, and a motion to stay the Judgement; it was agreed by

by the whole Court that the Action did not lye for these words, for the receiving of goods stolen knowingly, unless it be to maintaine the felon, is not felony. And there agreed that the Action will lye for this, Thou layest in wait to murder one; and that hee might receive the goods as Lord of a Mannour, or his Bayliff, as a waiffe of felons goods. Croo. 1 part last publishr. 888.

Case 108.

Trin. 26 Eliz. B. R. Smiths Case. Action for words, for that whereas R. Smith was attainted of felony, and shewed what the Defendant said. You [Innuendo the Plaintiff] have done as ill and worse, and it will cost you as much to be quit as it cost him; it was conceived the words might be actionable, have certainty enough in them. Charge of Felony. Words incertaine.

Case 109.

Trin. 28 Eliz. B. R. Sir Tho. Cockaine and his Wife versus Wigram. The Action was, My Lady Cockaine did offer two shillings to a woman with childe to get her a drink to kill her childe, because it was gotten by I. S. Sir Tho. Cockaines Butler. And it was adjudged for the Plaintiff, that the words were actionable. Croo. 1 part last publishr. 49. Endeavour to Murder.

Case 110.

Mich. 29, & 30 Eliz. Action for this, If you had your deserts you had been hanged before now; and it was agreed to be actionable, and it must be intended he had committed some offence for which he had deserved to be hanged; and there it was said by Wray Justice, that it had been adjudged, That where one did write the name of another upon a wall, and writ also, That if this man had his deserts he should have been hanged on the Gallows, and wrote a pair of Gallows on the wall; that for this the Action will lye. Croo. 1 last publishr. 68. Charge of Felony. Charge indrect and incertaine.

Case 111.

Doctor Caesar versus Curseny, Mich. 35, 36 Eliz. B. R. An Action for words, That whereas the Plaintiff was Judge of the Admiralty, and I. S. had a Suit against the Defendant, and the Defendant said, That the sentence given by the Plaintiff, Innuendo Sententiam predictam, &c. was corruptly given, and upon not guilty, a Verdict, and a Motion to arrest the Judgement, it was adjudged for the Plaintiff, Croo. 1 last publishr. 305. Slander of a Judge of a Court. Corruption.

Case 112.

Charter versus Peter. Hill 40 Eliz. Error was brought in the Exchequer Chamber of a Judgement in the Queens Bench, for these words, Thou art an Enemy to the State; for that the words were not actionable. But it was adjudged that they were actionable. Croo. 1 part last publishr. 602. Charge of Treason.

Case 123.

M. 6. Jac. B. R. the Action was brought for these words, Thou dost work by Negromancy, and dost work by the Devil; and it was adjudged to be actionable, for they are words of infamy and reproach, &c. Yelvertons Rep. 150. Charge of Witch-craft.

Case 114.

Higgs against Austlin, Pasche. 7. Jac. B. R. for this, Thou hast stola as much Wood and Timber as is worth twenty shillings, and the Jury found the words, and this further, off my Landlords grounds, and it was adjudged for the Plaintiff; for these words doe not guarantee, for Timber must needs be separate from the ground, &c. Yelvertons Rep. 32. Charge of theft of Wood.

Case 115.

VVeblin and Mayer, pasche 7. Jac. B. R. for these words, It will be proved

Charge of
Murder, by
words uncertain

proved by many vehement presumptions, that the Plaintiff was a plotter and contriver of the death of one Powel, because he would not sell him his Land; and it was adjudged not actionable, for he doth not directly charge the Plaintiff, but doth refer to presumption, and slanderous words must be spoken affirmatively. Yelverton, 153.

Case 116.

He is a Felon.

Words of qualification.

Newlin and Fasset. Pasche, 7. Jac. B. R. The Action was for these words; The Plaintiff is a Felon. Take heed what you say, saith a stranger, Why (saith the Defendant) is not hee a Felon, that knew of a Murder, and concealed it? Hee (Innuendo, the Plaintiff) knew of the Murder of A. L. and did not reveal it, till long after it was openly known. And it was adjudged actionable. And that the first words were so, and the subsequent words did aggravate the slander. And there a difference was taken between words of qualification spoken at the same time, and spoken afterwards. As one saith, Thou art a Felon, for thou hast stolen my Apples off my Trees, is not actionable. But if one say, Thou art a Thief, and a Slanderer by say, Beware what you say, and the other say, I will justifie what I say, is not hee a Thief that stole my evidence; it comes too late now to qualifie the former words. And there it was said by one Judge, to say, J. S. is a Traitor, for hee robbed a man by the high way side, is not actionable. And by another Judge, that it is actionable. Yelverton. Rep. 154.

Case 117.

Charge indirect of stealing.

Bury and Wright. Bear witness, Mistress, that hee hath stolen my Hair-cloth. And it was adjudged against the Plaintiff, and that the words were not actionable, for there is no direct Affirmation in the words, that import a charge of his stealing of it. No more than if hee had said, Mistress, you will bear witness that hee hath stolen my horse, for by this, the party that speaketh doth not slander, but resteth in the testimony of others for the proof of it, as if hee had said, J. S. will prove you stole my horse; these words will not maintain an Action. Quod nota. Yelvertons Rep. 156.

Case 118.

Slander of an Officer.
Bribing.
Justice of Peace.

Nile and Swanson. Mich. 6. Jac. B. R. This Action was brought by a Town-Clerk and Steward of a Mayors Court in a Town, Hee had taken forty shillings for a Bribe, and it was adjudged to lye, and that it shall have reference to him in his office, So to say so of a Justice of Peace, or Clerk of Assize. Yelvertons Rep. 143.

Case 119.

Charge of Treason.

Blanchflower and Atwood. The Action was for this, I will hang him, for hee hath spoken words which be high Treason; and they were adjudged actionable. Yelverton. Rep. 107.

Case 120.

Charge indirect of a Robbery.

Brinsby and Balgy. M. 5. Jac. B. R. The Action was brought by a Maid in a Treaty of Marriage for this. It is no marvel shee comes not to Church, for it is thought she is with childe, and I fear it is too true. And it seems not actionable. And yet that such words used about a Robbery, would be actionable. Yelvertons Rep. 113.

Case 121.

Charge indirect of a Theft.

Tomson and Knor. M. 6. Jac. B. R. The Action was brought for these words, You might have known your own sheep, and not have stolen mine; And this Case, by two Judges the words were not actionable, for they are no direct affirmation of any stealing, but by way of Implication, and a slander may not be drawn in by a strained construction. And two Judges, that they were actionable. Yelvertons Rep. 145.

Case

Case 122.

James Willshire hath forged the late Queens Writ; It was affirmed in Forgerie.
a Writ of Errour, that the words are actionable. Willshire Case. Mich. 5.
Jac. B. R. Yelvertons Rep. 146.

Case 123.

Staverton and Relte. M. 7. Jac. B. R. The Action was this, I will prove thee a perjured Knave. And it was adjudged actionable, for these words; I will prove, import a vehement affirmative of the thing, and the Plaintiff guilty therein. Yelvertons Rep. 160.

Charge indicted of Perjury.

Case 124.

Dromant and Westofer. M. 6. Jac. B. R. The Action was for these words, The wife of D. [Innuendo, the wife of the Plaintiff] pickt five shillings six pence out of H. Davis wives pocket, and her Husband [Innuendo, the Plaintiff] was consenting to the same; and in this Case the Judgement given in the Common-Pleas, upon a Writ of Errour, was affirmed in the Kings-Bench for the Plaintiff, for the first words, to pick a pocket, &c. are slanderous, and in the common phrase is in the worst sense a stealing. Yelvertons Rep. 136.

Charge of Theft.
Pickpocket.

Case 125.

Tuerleore and Morrison. Hill. 8. Jac. B. R. The Action was brought for these words, by an Alien Merchant, Hee is a Bankrupt, and fled beyond the Seas for much money. And the Defendant pleaded, that the Plaintiff was an Alien, but it was adjudged for the Plaintiff. Yelvertons Rep. 199.

Alien.

Case 126.

In an Action upon the Case for words, the Plaintiff did declare, That hee was Heir apparent to his Father, and also to his younger Brother, who had purchased Lands, but had no issue, either Male or Female; and that the Defendant, with an intent to bring him in disgrace with his Father, and also with his younger Brother; and thereby to make the Father and younger Brother to give away their Lands from the Plaintiff, did maliciously speak these words to the Plaintiff, Thou art a Bastard, which words were spoken in the presence of the Father and younger Brother; by reason of speaking which words, the Father and younger Brother did incur, and afterwards did give their Lands from the Plaintiff. And by the opinion of the whole Court, it was adjudged, that the words were actionable, and Judgement entered accordingly. Godbolt. Rep. Case 519. Humtreys Case. 13. Car. B. R.

Case.

Loss of Preferment.

Thou art a Bastard.

Case 127.

Mich. 20. Jac. B. R. Elborrow versus Allen. Action upon the Case. Whereas hee was the Son and Heir of John Elborrow, and Anne his Wife, Daughter and Heir of John Travel, and had divers Lands by descent from them, of the value of two hundred pound per annum, that the Defendant envying his estate, speaking of the Plaintiff, and Katherine his wife, said these words, Shall Elborrow his wife sit above my wife; hee is but a Bastard? That by this hee was much scandalized in his Estate, and forced to great expence to defend his Title, upon Nihil dicat, writ of Injury, and fifty pound damages, and after motion to arrest the Judgement, it was given for the Plaintiff And it was agreed, that the words in themselves were scandalous and dangerous, that may cause his Inheritance to be questioned. Croo. 2. 64.

Slander of a Title to Land.

Case 128.

Banister sued Banister, for saying to him, being Son and Heir to his Father, That hee was a Bastard. And it was resolved that the Action would lye, for the words tended to his dis-inheritance. But if the Defendant him-

Slander of a Title to Land.

A n

self

self had pretended to be the next Heir, then the words had not been actionable. Trin. 25. Eliz. B. R. Mich. 3. Jac. B. R.

Case 129.

Slander incertain in the person, slandered, and in the matter.

Two men having speech together of John Symes, and William Symes, one of them said, The Symes make Half-crown peeces, and John Symes did carry a cloak-bag full of clippings. And whether the Action would lye, was the question, because it was incertain in the person; for hee did not say, these Symes, but the Symes: Like unto the Case, where one Far- rer being slain, and certain persons being Defendants in the Starre-Chamber, one having speech of them, said, These Defendants did murder Far- rer, and it was adjudged, that the Action would not lye, for two causes. First, Because the words (these) was incertain in the person: And secondly, it was incertain in the thing; for it might be, that they had authority to do it; as in Mills Case. 13. Jac. in the Kings-Bench, Thou halt coyned Gold, and art a Coyner of Gold. Thirdly, a Cloak-bag of Clippings, that is also uncertain; for it might be Clippings of Brass, or other things, or it might be Clippings of Silver from the Goldsmith; for the Goldsmith that maketh plate, maketh Clippings; and fourthly, it is not shewed any certain time, when the words were spoken. And for these causes it was adjudged that the Action would not lye. Godbolt. Rep. Case. 477. Symes Case. Pasche. 3. Car. B. R.

Case 130.

Hinderance of Preferment. Bastard. Slander of a Title For saying one is a Bastard.

Note it was cited by Chamberlain Justice 15. Jacobi, to be adjudged, That where a man brought an Action upon the Case against another man, for calling of him Bastard, that the Action was maintainable; the Defendant brought a Writ of Error, and shewed for Error, that the Plaintiff did not claim any Inheritance, or to be Heir to any person certain: But notwithstanding that Error assigned, the Judgement was affirmed. And hee said, that if one saith of J. S. that his father is an Alien, that an Action upon the Case will lye, because it is a disability to the Son. Quere Godbolt. Rep. Case 431.

Case 131.

Slander of a Title.

Mich. 6. Jac. B. R. Vaughan versus Ellis. Error of a Judgement in the Exchequer, in an Action of the Case for words, for calling of him Bastard. And the cause of the Error was laid to be, that the Action lies not for these words, without special cause shewn, that hee was damaged by them; as that hee was inheritable to some Lands, and by reason thereof he is to have losse. And here it is shewn, that such Land was given in tail to his Grandfather, and that his father had divers Sons, whereof the Plaintiff is youngest Son, and his Elder Brothers are living; and that such a one was to buy the Land, and offered him so much for his Title. And by reason of those words, refused to give him any thing. In this case it was agreed, that albeit hee had no present Title, but a possibility; and being offered money for it, and having lost this gain by the words, and in futuro, might receive prejudice, in case hee were to claim any Land by descent. And for these causes they held the words actionable; and did affirm the Judgement. Croo. 2. 213.

Case 132.

For saying, Thou hast had Bastards.

An Action of the Case was brought for speaking of these words, viz. J. S. 34. years since, had two Bastards, and hath paid for the nursing of them; and the Plaintiff shewed, that by reason of these words, contention grew betwixt him and his wife, almost to a divorce; and it was adjudged, that an Action would not lye for the words; and the Chief Justice said, that an Action upon the Case doth not lye for every ill word, but for words by speaking

speaking of which, the Plaintiff is damaged, and that cannot be in this Case, the time being so long past. And the causes wherefore a man shall be punished for saying, that a man hath a Bastard, are two; the one because by the Statute of 14. El. 2. The offender is to be punished for the same. And secondly, because the party by such means is discredited, or hindered in his preferment. Godbolt. Rep. Case. 385. Pasche. 16. Jac. B. R.

Case 133.

Sir Gilbert Gerrard brought an Action against Mary Dickinson, and declared, that hee was seized of the Land in Fee, and was in treaty to make a Lease of it, for two and twenty years, at a hundred pound a year Rent to R. Egerton; and that the Defendant knowing of it, said, I have a Lease of the Mannor and Cattle of H. (which was the same Land) for ninety years, and published it, &c. by reason whereof R. Egerton did not proceed. In this Case it was agreed, that no Action would lye for the words, although they were false, because the Defendant did pretend an interest in the Land. So if the Defendant had said, that the Plaintiff had no right to the Land, but that hee her self had right to it; no Action would lye for this. Coo. 4. 18.

Case 134.

An Action upon the Case was brought for these words, viz. Thou art a Couzener, and Bankrupt, and hast an occupation to deceive men by; the words were spoken of a Gentleman, who had a hundred pound Land per annum, to live upon; and therefore although he used to buy and sell Iron, yet because he was not a Merchant; nor did live by his Trade, the better opinion of the Court was, that the words were not actionable; and so adjudged. Godb. Rep. Case 45. Hill. 28. Eliz. B. R.

Case 135.

Pasche, 15. Car. 1. Smiths Case. One said, Thou art forsworn, and hast taken a false Oath at Hereford Assizes against J. S. And the opinion of the Court was against the Action. But it was said, it would have lyeen for this, Thou art forsworn, and hast taken a false Oath at the Assizes against J. S. with an Averment, that he was sworn in the cause. March. Rep. pl. 17. Smiths Case. Pasche. 15. Car. 1.

Case 136.

Easter 15. Car. 1. Molton versus Clapham. The Defendant upon reading Affidavids in Court openly, in the presence and hearing of the Justices and Lawyers, said, There is not a word true in the Affidavids, which I will prove by forty witnesses. March. Rep. pl. 45. Molton versus Clapham. Easter. 15. Car. 1.

Case 137.

Mich. 15. Car. 1. Johnson versus Dyer. The Case was this, The Defendant having speech with the father of the Plaintiff, said to him, I will take my Oath, that your Son stole my Hens; but did not averr that hee was his Son, or that hee had but one Son; and it was held not good. March. Rep. pl. 96. Mich. 15. Car. 1.

Case 138.

Mich. 15. Car. 1. Just. Crooks Case. It was agreed, That if one had preferred a Bill in the Starr-Chamber against a Judge, for Corruption in his office; and then shall go unto a Tavern, or other place, and tell the effect of it, that this is actionable. March. Rep. pl. 119.

Case 139.

Pasche, 17. Car. 1. B. R. Sir Richard Greenfields Case. The Action agreed to be maintainable for this, Thou hast received mony of the King to buy new Saddles, and hast couzened the King, and bought old Saddles for

Slander of a Title.

For saying, Thou art a Couzener and Bankrupt.

Charge of Perjury.

Perjury.

Uncertain charge of Felony.

Manner of divulging of a Slander.

Charge of couzening.

Charge of
Murder.
Lack of Aver-
ment.

the Troopers, for hee may thereby lose his office or imployment. So if hee had said these words of the King's Sailer. March Rep. pl. 135.

Trin. 17. Car. 1. Co. B. Action was brought for this. Thou hast killed my Brother, Innuendo C. &c. *fratrem nuper mortuum*; and it was held by the whole Court not actionable, without averment that hee was dead, and that the Innuendo will not do it. March Rep. pl. 187. See Hobb. Rep. pl. 11.

Charge of
speaking a-
gainst the book
of Common-
Prayer.
Averment
Necessary.

Trin. 17. Car. 1. Hawes Case. The Action was brought for these words, My couzen Hawes hath spoken against the Book of Common-Prayer, and said, it is not fit to be read in the Church; with an averment of a special losse by it, that hee was called into the Spiritual Court, and the Plaintiff had Judgement in it. March, Rep. pl. 191.

Charge of
cheating and
couzening.
Averment.

Mich. 17. Car. 1. Co. B. Baine sued for these words, That hee kept a false Buttel, whereby hee did cheat and couzen the poor. But he set forth, that hee was a Farmer, did use to sow Land, and sell the Corn, and there- by maintained himself, and his family; and that the words were spoken to one that did use to buy of him, and that by reason of the words, hee lost his custome. And it was adjudged actionable. March, Rep. pl. 192.

Couzening.

Mich. 17. Car. 1. Co. B. A. sued for these words, That hee kept false weights; and hee set forth, that hee got his living by buying and selling, but did not shew of what Trade or Profession he was, and agreed that the Action will not lye. And if hee had shewen hee had been of a Trade, it will not lye, because hee doth not shew that hee did use them. March, Rep. pl. 197.

Charge of
poisoning a
man.

In Mich. 11. Jac. B. R. and Exchequer Chamber, Miles versus Jacob, for these words, Thou [Innuendo, &c.] hast poisoned Smith [quendam Sam. Smith ad tunc defunct. Innuendo] and if it cost mee a hundred pound I will hang thee for it. And declared further, that of meer malice at the next Assizes, &c. hee procured him to be falsely indicted, that hee had given poisoned drink to Smith, to the intent to poison him, whereof hee died, whereupon Miles was afterwards acquitted; upon not guilty, it was found for the Plaintiff, and damages severally for the words. And Judgement seven pound a piece, Costs entire. Upon a Writ of Error in the Exchequer-Chamber, it was adjudged that the words would not bear an Action, for it doth not appear that hee did it wittingly, or that hee was dead at the time of the words spoken. And the Innuendo will not supply it, it is no sufficient Averment. But for the Indictment it was adjudged, that the Action will lye. So that for the damages for the words, the same being severall, the Judgement being reversed, for that part failed. But the Judgement for the Indictment, and damages for it, was affirmed, and for all the Costs. Hobb. Rep. pl. 11.

For procuring
of an Indict-
ment.

Innuendo.

Sorcerer.
Inchanter.

Mich. 7. Jac. in Co. B. Muttons Case. An Action of the Case was brought against Mutton, for calling of the Plaintiff Sorcerer, and Inchanter, who pleaded not guilty; and it was found against him to the damages of six pence, and it was holden by the whole Court in the Common-Pleas, that no Action lyeth for the said words: For *Sorilegium est rei futuri per sortes exploratio, et Sortilegus five sortilegista est qui per sortes futura preun- ciat*; Inchantery est verbis aut rebus adjunctis aliquid preter naturam moliri. And it was said, that it was adjudged, that if one calleth another Witch, that

Witch.

that an Action will not lye, for it is too general: But if one saith, shee is a Witch, and hath bewitched such a one to death; an Action upon the Case lyeeth, if in truth hee bee dead. And if a man bee called a Conjuror, hee shall not have any Action upon the Case, unless hee saith, that hee is a conjurer of the Devil, or of any evil, or wicked spirit. Coo. select Cases page 59. Case 16.

Conjuring.

Case 146.

Mich. 5. Jac. B. R. An Action was brought by John Prichard against Robert Hawkins for Slanderous words, published the last day of August, in the third year of the King, viz. That Prichard, which serveth Mrs. Shelley, did murder John Adam's Child, (Quandam Isabellam Adams modo defunct, filiam curjdam J. hannis Adams of Williamstre in the County of Gloucester, Innuendo) upon which a Writ of error was brought in the Erchequer Chamber, upon a Judgement given for Prichard in the Kings-Bench; and the Judgement was reversed in Easter Term 7. Jac. because it did not appear, that Isabel, was dead at the time of the speaking the words; for eunc defunct, ought to have been in the place of modo defunct. Coo. Select Cases page 71. Case 35.

Charge of Murder, by words repugnant. Murder.

Case 147.

Easter 8. Jac. B. R. Humphrey Dison said of Nicholas Bestney, Utter Barrester and Counsellour of Graies Inn, thou a Barrester? thou art no Barrester, thou art a Barroror; thou wert put from the Barr, and thou darrest not shew thy self there; Thou study Law? thou hast as much wic as a Daw. Upon not guilty pleaded, the Jury found for the Plaintiff, and assessed damages to twenty three pound, upon which Judgement was given; and in a Writ of error in the Erchequer Chamber, the Judgement was affirmed. Coo. Select Cases page 71. Case 36.

Case 148.

An Action of the Case was brought against one, for that hee said to another, I will give thee ten pound to kill such a one, and the Question was, whether the Action would lye. It was said, by Sir Thomas Cockain, that such a Lady had given payson to such a one to kill her Child within her, that the words were not Actionable. Also one said, That another had put Gun-Powder in the Window of a house, to fire such a house, and the house was not fired; adjudged that the words were not Actionable. The Case was betwixt Ramley of Buckinghamshire and another, who said, that hee lay in wait to have killed him; It was found for the Plaintiff, and he had forty pound damages given him. But of the principal Case, the Court would advise. Godbolt. Rep. Case 51. Banco Regis. Mich. 28. 29. Eliz.

Charge of words of Attemp, and Endeavour to Murder. Murder.

Case 149.

Hill. 43. Eliz. Seich. versus Wildome, for these words, Hee did better than many an honest man did; for there is many a truer and honestier man hanged. And there was a Robbery committed, whereof I think him to be one; And I verily think him to bee a Horse-stealer, and not guilty being pleaded, it was found for the Plaintiff, and Judgement upon it. Goldsb. 186, and Owens Rep. 18.

Charge of Robbery. Manner of utterance of words or Indirect charge. Opinion.

Case 150.

Easter Term. 15 Car. An Action of the Case was brought by a Journeyman, and Foreman of a Shoemakers Shop, which was his living and livelihood, for these words, viz. It is no matter who hath him, for hee will cut him out of doors. And it was averred, that the common acceptance of the words amongst Shoemakers, is, that hee will make him run away, and begge, and alledged special damage by it, and it was held actionable. In March. Rep.

Slander to a Tradesman. Shoemaker.

Charge of
Murder.
Uncertain
words.

Case 151.

An Action of the Case was brought for speaking these words, Thou dost lead a life in manner of a Rogue, I doubt not but to see thee hanged for striking Mr. Sydenhams man, who was murdered. And it was resolved by all the Justices in the Exchequer Chamber, that the words were not actionable. At the same day in the same Court a Judgement was reversed in the Exchequer Chamber, because the words were not actionable; the words were these, viz. Thou wilt me now, as thy Wife did when shee stole my goods. Godb. Rep. Case 331. Mich. 11. Jac. in the Exchequer Chamber.

Case 152.

Theft.

Pleading.

Mich. 21 Jac. Action for these words, the Defendant having speech with one Chapman of the Plaintiff, spake these words, Shee (meaning the Plaintiff) is a thief to you and to me, and hath stolen twenty pound from me, and forty pound from you; the Defendant justified, that she was a thief, and stole two Hens from her such a day, and year, feloniously; the Plaintiff demurred upon the justification, because it is not a justification of all the words, or of any part of the last words; adjudged, the justification was not good, and therefore the Plea vicious; and judgement was given for the Plaintiff. Hilsden and Mercers Case. Croo. 2 part, 676. Hilsden versus Mercer.

Case 153.

Manner of the
charge of theft.

Hill 43 Eliz. Humphry Parlor sued for this; Parlor was in Prison in a Gaol for stealing of Mr. Piggots Beasts, and had a verdict and judgement upon it. Goldsb. 130.

Case 154.

Charge of
theft by words
uncertaine.

Mich. 39, 40 Eliz. Brough versus Dennison, for these words, Thou hast stolen by the High-way side, and the words were not held actionable. Goldsb. 143.

Case 155.

Slander of a
Justice of
Peace.

Mich. Jac. B. R. The Defendant spake these words of the Plaintiff, being a Justice of the Peace, He (meaning the Plaintiff) for malice and spleen, did many times wrest the Law, and pervert Justice to serve his owne turn. It was moved; it was not alledged, That there was communication with any other of the Plaintiff, or that it was about the execution at his office; and then the words, [He did, &c. Non constar. whether the members by whom they were spoken of the Plaintiff, and the words, [that he did many times wrest the Law, &c.] might be spoken long before he was a Justice; but adjudged, the Action doth lye, the Declaration being that He, de pefate, Thomas Dixit: And secondly, the words shall be taken in the worst sense, to scandalize him in his office. Sir Tho. Beaumont, and Sir Hen. Hastings Case, Croo. 2 part. 140.

Case 156.

Words spoken
in the time of
another King.

Paiche, 30 Eliz. Cutts versus Robbins, this Action was brought; and they were at issue, and it was found for the Plaintiff, and hee had judgement, albeit the words were spoken in the time of Q. Mary, and perhaps the offences of that nature were pardoned. Goldsb. 85.

Case 157.

Charge of being
Accessory
to a theft.

Hill. 43 Eliz. Hugh Hall sued for this, that whereas he had lost Cloth, and searched after it, that the Defendant said, Hugh Hall hath received three parcels of his cloath again of the thief, and if I receive any hurt henceforth I will charge him with it; in this Case it was adjudged, that the words were not actionable. Goldsb. 119. Halls Case.

Case 158.

Case 158.

The same Term Richard Somersdales sued for this; R. S. is a very Drunkenness, bad fellow, for he made I. S. drunken in the night, and couzened him of an hundred Marks; and judgement was staied, for it was held, that the Couzening, words were not actionable. Goldsb. 125.

Case 159.

Will. 7 Jac. B. R. The Defendant at W. in the County of G. in the hearing of others, spake these words of the Plaintiff, being a Counsellour at Law; You are a poultry Lawyer, and use to play on both hands; and at another time before the Chancellour of the Bishop of Gloucester, for he spake to the Chancellour of the Plaintiff, I hope you will not believe Mr. Rich, for he (Innuendo Mr. Rich,) is the furtherer and maintainer of Felonies; adjudged the first words not actionable, but the last words, viz. That he was a furtherer of Felonies, were actionable, and so was it adjudged in Sir Hen. Leas Case, Rich and Holts Case. Croo. 2 part. 266. Slander of a Counsellour. Maintainer of Felons.

Case 160.

Trin. 29 Eliz. an Action was brought for these words, Thou wouldst have stoln a peice of cloath, or else thou wouldst have delivered it to my Wives daughter, and thou art a thief, and an arrant thief; and it was adjudged they were actionable upon the last words; otherwise perhaps it is where the words are. And therefore thou art a thief. Normans Case, Goldsb. 76. and Hill, 30 Eliz. Edward Smith sued VVarner for this, I was robbed of goods to the value of forty pound, and they were stoln by Smith, and his household [Innuendo, the Plaintiff, and A. his Wife, and B. their Servant] and upon not guilty, it was found for the Plaintiff, and he had judgement, and it was agreed, that each of them may have several Actions for the slander. Goldsb. 76. Charge of an Attempted Endeavour. Theft.

Case 161.

Pasch. 9. Jac. B. R. Action for these words, Mr. Berisford (meaning the Plaintiff) hath spoken Treason, and that I will prove; moved, the words are not actionable; 1 Because there is no expresse affirmation, that the Plaintiff is a Traytor. The words That I will prove, is quasi by way of argument, which is not to be taken in ill part. But the opinion of three of the Justices was, that the words shall not be taken argumentative, but affirmative; and Judgement was given for the Plaintiff by consent of Parties, the Judges being divided in it. Berisford and Credles Case. Croo. 2. 275. Charge, indirect of Treason.

Case 162.

Hill. 10 Jac. Morton versus Leedel. The Action was for this, He is a lying dissembling fellow, and a mainforn and forsworn fellow; and judgement was given for the Plaintiff, after divers motions, Brown and Goldsb. 4. Mainforn Fellow. Liar.

Case 163.

Hill. 15 Jac. Harding versus Bullman. The Plaintiff declares, that before this he brought an Action against B. for slanderous words, to which he pleaded not guilty, and that the Plaintiff gave evidence to the Jury to impeach the Plaintiffs testimony, that he was a common Liar, and so recorded in the Starre Chamber, by which the Plaintiff gave him the lesse damage; in this Case the Court agreed, that the Action would not lye. Goldsb. and Brownl. 2. Indirect charge. Manner of utterance.

Case 164.

Pasche 29 Eliz. An Action was brought for this, Thou dost harbour and maintaine Rebels and Traytors; and it was adjudged to lye without this. Harbour, Rebels and Traytors.

this averment, that hee knew them to bee such. Goldsb. and Brownl. 1 part 48.

Case 165.

Charge of
Treason.

Trin. 14 Jac. B. R. Rot. 39. an Action for these words, The 12th Decemb. 13 Jac. that John Piers did say, That John Lewis (meaning the Plaintiff) did say, That there is no Prince in England, whereas revera, J. Piers never spake any such words; and the Plaintiff adds, that the King, & his Son Prince Charles were then in England; It was moved. 1 That it was but the report of another, and not his owne speech. 2 It is not shewed, when the words were used, for it might be in the time of Q. Eliz. But it was adjudged, that the Action lyes, for it shall bee taken, hee spake them in the worst sense to draw him in question for his life; and they touch him in his Loyalty, which is a capital offence, if true; and he adds, the words were never spoken, wherefore hee cannot shew any time of speaking of that which was never spoken. Lewis and Walters Case, Croo. 2. 406. & 413. Bullstrode 3. 225.

Case 166.

Slander of a
villiers Land.

Palche 14 Jac. B. R. Smead and Badleys Case. The Plaintiff declared, That his Brother dyed seized of Land in Fre, and dyed seized thereof without issue, and the Land descended to him as Heir, and that he had a purpose to settle part of it upon his Son, and to make Leases of part of it, and that the Defendant, to frustrate his intent, used these words, The Plaintiff hath no more right to the Land than a stranger. It was adjudged against the Plaintiff, because he did not shew any cause of losse, that he was about to make a Lease or assurance of it to his Son, but that he had an intent only. Croo. 2. 397. 337. Owens Rep. 32. Pophams Rep. 187.

Case 167.

Bankrupt.

Trin. 18 Jac. B. R. Action for these words; the Plaintiff alledged, That 1. April, 17 Jac. hee was a Merchant, and the said 1. April, 17 Jac. the Defendant spake these words of the Plaintiff, Hee is a Bankrupt slave; the Defendant justifies, because 1 April, 17 Jac. the Plaintiff became bankrupt; but adjudged, the words actionable, and the Defendants Bar insufficient, because he doth not alledge, he continueth still a bankrupt; for it may be, he afterwards recovered himself, and became a good Merchant; judgement for the Plaintiff. Usher and Bretts Case. Croo. 2. 578.

Case 168.

Indirect words.
Theft.

Trin. 22 Jac. in C. B. Action for these words Thou art as arrant a thief as is any in England, for thou hast broken up I. S. his chest, and taken away forty pound. After verdict, and motion to arrest the Judgement, it was adjudged, the first words without any Averment, will not maintaine an Action, and the last words doe not prove any felony committed, and the money may be taken away, and the Chest broken open upon pretence of Tithe, and in mid-day in the presence of divers, and then it is no felony. Judgement was for the Defendant, and there this Case was put by Hubbard, Thou art a thief, for thou hast stoln away my corn, not actionable; but if he say, For thou hast stoln my corn. contra. Foster and Brownings Case. Croo. 2. 687.

Case 169.

Slander of a
Lawyer.

The Plaintiff being an Attorney in B. R. for one Ecombridge, prosecuted for him a Latitat against Lord, which he delivered to the Sheriff; upon which Lord was arrested. The Defendant having speeches with Ecombridge concerning the Plaintiff, and his honesty as an Attorney, and concer.

concerning the said Latitar; ex malitia præcogitata, said these words of the Plaintiff; Go tell your Lawyer Roberts, that I say, hee is a base Ratcal, and I will make him lose his ears; and I will teach him, or any Lawyer of them all, to have a Writ served on mee. Upon not guilty, it was found for the Plaintiff. And upon debate between the Judges, it was resolved, that the words were actionable. Trin. 3. Car. 1. Rott. 1170. in B. R. Roberts and Lords Case. Ley. 70.

Case 170.

Action for words, The Plaintiff declared, that one named Carolus, being of good fame, and name, the Defendant said, de prefato Carolo, Where is this Baker? (Innuendo, Carolus Baker) hee hath taken a false oath, and I could make him look through the Pillory. It was moved, that the Innuendo will not make it good, there being no Baker spoken of before. But the opinion of the Court was, The Declaration was good. And if one say of a Counsellour, Where is this Counsellour, Innuendo, such a one, it is good. Adjudged for the Plaintiff. Trin. 13. Jac. in B. R. Bakers Case. Bullstro. 3. part 72.

Charge of Perjury.
Incertainty.
Innuendo.

Case 171.

Action brought for these words. Sir Herbert Crofts keepeth men to rob mee (the truth was, that the Defendant was robbed by two of Sir Herbert Crofts men) and upon this the Defendant spake the words: But the Defendant doth not say, That hee did keep them so to do. It was agreed by Cook Chief Justice, and all the Court, that the Action would not lye for those words; for that there is done; and it is to be intended his keeping of them to be lawful; and the words [to rob mee] this is but an intent, and no Act; and an intent without an act, is not punishable; and Hill. 39. Eliz. in C. B. Snag and Gee's Case, was vouched by Cook; where the words were, Thou hast killed my Wite, and it appeared the Wite was then living. Adjudged, the words not actionable; in the principal Case, it being found for the Plaintiff. the Judgement was arrested, because the words were not actionable. Pathe 14. Jac. B. R. Sir Herbert Crofts and Browns Case. Bullstr. 3. part 161.

Hee keepeth men to rob mee.

Inclination and purpose.

Case 172.

In an Action upon the Case for words, it was found for the Plaintiff. It was laid in the Declaration, cum quidam malitiosiores ignoti, had feloniously shorn the sheep of J. S. upon a Communication had between the Defendant and another, touching the shearing of these sheep, the Defendant spake these words, I do know who did shear the sheep; (predict. J. S. Innuendo) the other desired of her, who this was? she answered, It was the Plaintiff and M. that did shear them (Innuendo, Felonice) it was upon motion, for stay of Judgement adjudged, that the words were not actionable, and that the general words shall not be restrained to particular; and the Innuendo will not help it: And in the Declaration it is laid, there was Communication betwixt the Defendant and another, concerning the shearing of the sheep (but not concerning the felony) And it is not said, that shee did know who did shear the sheep feloniously, but who did shear them generally; and the scandal grows out of an inference only, which ought not to be, to make words actionable; but the words themselves ought to be directly scandalous. Judgement was arrested. Mich. 13. Jac. B. R. Helly and Henders Case. Bullstr. 3. part 83.

Charge of Theft.

General and uncertain words.
Innuendo.

Case 173.

Hill 9. Jac. Rott. 832. B. R. Action for these words, Thou art a Bankrupt Rogue, and accounted a common Knave; and thou art a Thief, and hast stolen my Corn. Adjudged, the first words were not actionable, Theef.

Bankrupt Rogue.
Knave.

pp

but

Damages en-
tire.

but the second were : but because the Judgement was intire, and the damages intire; the Judgement was reversed upon a Writ of Error brought. Lloyd and Peales Case. Croo. 2. part 424.

Case 174.

Charge of For-
gery.

Charge indi-
rect.

Words incer-
tain.

In an Action upon the Case, for words; it was found, upon not guilty, for the Plaintiff: The words spoken by the Defendant to the Plaintiff, were these, viz. Thou hast forged Writings, for which thou shouldest lose thy ears. It was laid in the Declaration, that the Plaintiff was a Practitioner, Solicitor, and Steward of a Manor. The Court was divided in opinion: For Mountague, Chief Justice, and Crook, were of opinion, that the words were actionable; for although the first words of themselves, are not actionable, yet the subsequent words added to them, make them actionable. Like the Case, if one saith, Thou hast stolen, no Action will lye for these words; but if hee doth add these words, viz. for which thou shouldest be hanged; then an Action upon the Case will lye: and the precedent words are to receive construction by the subsequent words. Haughton and Doderidge, the Action will not lye; for the words here are uncertain, what manner of Writings they were; and they may be frivolous Writings, for which hee ought not to be called in question; and no Indictment will lye for this Forgery, and then if hee be not in danger of his ears, and so no Action will lye for these words. Curia advisare vult, for search of precedents. And afterwards the Case was not moved again, but was ended by agreement between the parties. Pasche 24. Jac. B. R. Frost and Ayres Case. Bulltrod. 3. part 265, 266.

Case 175.

Witch.

An Action for these words, viz. Mr. Lowes is a Witch, and I will prove it; for I have seen him and his Imps, and evil spirits appear unto mee, in my Chamber, and put mee in fear of my life; and hee said, come; they will never be at quiet, till wee have killed him: And hee did bewitch a childe of mine. It was adjudged, that the words were actionable in the Kings-Bench. And if one saith of J. S. That hee hath conference with evil spirits, the words will bear Action. But for one to say, That such a one is a Witch, in anger, the words are not actionable. Judgement was for the Plaintiff. Trin. 13. Jac. B. R. Rott. 114. & 130. Lowes Case. But yet afterwards a Writ of Error was brought upon this Judgement in the Exchequer-Chamber, and there holden by the Judges, the words were not actionable, and the first judgement was reversed. Trin. 13. Jac. Bulltr. 3. part 74.

Case 176.

He is a Papist.

Pasche. 10. Jac. Co. B. Iveland versus Smith, for these words, Hee is an arrant Papist, and hath a pardon from the Pope, and can help you to such a one, if you will; and it was agreed that Action will not lye for them. Goldsb. and Brownl. 2. part 166.

Case 177.

Slander in ano-
ther language.

Welsh.

Edward Gibbs brought an Action upon the Case against Jenkin David, for words spoken in the Welsh Tongue, and declared that the conference was had by Baron Snigg with the Defendant, concerning the felonious stealing of three Heifers, and the Defendant is supposed to answer to the question in Welsh, Whether Thomas Jackson stole them; if hee had them, I should have had them again, but Edward Gibbs stole them: and upon not guilty pleaded, it was found for the Plaintiff at Bristol; and it was moved this Term in arrest of Judgement, that the words in Welsh did not signifie stealing, but carrying away upon ones back: and it appeared upon examination of one Mr. Gunter upon oath, that it is properly the word

word for carrying, though that there in the Intendment of the parties it might be taken for stealing, it being joined with other precedent circumstances, yet it is not actionable, for it shall be taken in the most favourable construction, and best sense, as if one had said, That such a one had the Pox, and forbid one to use his company, it shall not be intended of the French-Pox, and no Action lies. And judgement was given for the Defendant; yet it was averred in the Court, that the words were spoken in the hearing of them which understood the language. Trin. 15. Jac. Rott. 1634. Huttons Rep. page 8. Hobbs Rep. pl. 236. and in Noyes Rep. 19.

No malice words.

Case 178.

Stone brought an Action upon the Case against Roberts, for these words, The Plaintiff is a Witch, and an Inchanter, and hath bewitched the children of one Strong: And Judgement for the Plaintiff, for though Witch is a word of malice, and familiarly used to old men, women, and therefore no Action lies; yet here it is coupled with a deed, by which the Plaintiff is drawn in danger of his life, by the Statute of 1. Jac. otherwise for the word Witch alone. Mich. 15. Jac. Rott. 636. Huttons Rep. 13. Noyes Rep. 22.

Witch and Inchanter.

Case 179.

Gittings Plaintiff in the Exchequer against Redgrave, Gittings is a couzening Knave, and so I have proved him before my Lord Mayor, for selling mee a Saphire for a Diamond; the Action doth not lye; and by Madi-wood, if A. says of B. Thou art a couzening Knave; and hast couzened mee of five hundred pounds; no Action lies, which the Court agreed. Eliz. Huttons Rep. 13.

Couzening Knave, not bar.

Case 180.

An Action of the Case was brought, for these words, I charge thee with Felony, for taking mony forth from John Spacie's pocket, and I will prove it. Henden moved in Arrest of Judgement, that these words were not actionable.

Indirect charge of Felony. I charge thee with Felony, &c.

First, Because it is not any direct affirmative, that hee is a Felon; and for that hee vouched a Case (as hee said) adjudged in the Kings Bench, Masters, bear witness that hee is a Theef.

Bear witness he is a Theef.

The second reason was, because that the matter subsequent doth not contain matter, which must of necessity be felony, but stands indifferent: for if it be not privily and secretly, it is not felony; and it may be, by way of sport, or trespassse; for as one said, That hee is a Theef, and stole his Timber, it is not actionable, for it might be Timber cut, or Timber growing; So to say, That hee stole his Corn, or his Apples, or his Hops: for in nullo tiorem verba sunt accipienda. And it seemed to the Lord Hobbs, that the first words, viz. (I charge thee with Felony) are actionable; for the Constable (if hee be there present) ought to apprehend him thereupon, and it is a plain Affirmative, I arrest thee of High Treason; Justice Winch prima facie held, that the words were actionable, and not qualified by the subsequent words, as it should be, if hee had said, For thou hast stoll my Apple-Trees standing in my Orchard, that could not be felony, but it is not so there, for it may be felony, and ex causa dicendi it shall be taken for felony; in these words for taking mony, &c. Warburton and Hutton was of opinion that the Action lay not.

Thefe about Apples, Timbers, &c.

I arrest thee of Treason, &c.

Causa dicendi.

This Case was moved in Mich. 18. Jac. And then the opinion of the Court (preter Warburton qui hesitavit) was, that the Action did not lye. Ideo memorando quod querens nil capiat per breve. Pasche. 18. Jac. Huttons Rep. 38. Mason versus Tomson. Pasche. 18. Jac.

Bankrupt.
Tradesman.
Merchant for
Lead.

Allen brought an Action of the Case against Swift, and declared, That where,

as he bargained & sold; that is to say, Merchandized for Lead in the County of Derby, and there by hath acquired money towards his livelihood, the Defendant said of him, Hee is a Bankrupt, and is not able to pay his Debts, but will run the Country; it was found for the Plaintiff, and moved in arrest of judgement by Serjeant Harvey; that the Action lay not, because that the Plaintiff shewen not, that hee used it as his Trade, nor that he gained his living by buying and selling; also he is intituled Gentleman; but the Court held, that the Action would well lye, and it had been adjudged 14 Eliz. that a Tanner shall have an Action for such words. Mich. 9 Jac. Huttons Rep. 46.

Case 182.

Charge of
Robbery indi-
rect.
Slander of a
Justice of
Peace.
I will indict
him for, &c.

Hugh Meredith a Justice of Peace in the County of Monmouth, brought an Action upon the Case against Bonill for these words, I will have him hanged for robbing on the High-way, and for taking from a man, five pounds, and an horse; after verdict for the plaintiff, it was moved in arrest of Judgement, that the words were not actionable, for they are not Affirmative or Positive, but a supposition only; as if he had said, I will indict him for such a matter; it was vouched to be alledged; 31 Eliz. in Nowels Case, that to say of an Attorney, That hee was Cooped for forging Writs, maintained an Action; and 14 Eliz. He is infected of a Robbery, and he smelleth of the Robbery, adjudged actionable, in Balls Case, there is never a Purse cut in Northamptonshire but Ball hath a part of it, will not bear action; but the Court would not declare their opinion, Quia sub spe concordiz. Hill, 10 Jac. Huttons Rep. 58.

Case 183.

Attorney Cooped for forging
Writs.
Words general
and incertaine.

Sir Robert Hitcham Serjeant at Law, and to the King, brought an Action upon the Case against one Brook, a Justice of the Peace, and which had been Sheriff of Suffolk, and Count, that hee for divers years last past, had been one of the Kings Serjeants, and had demeaned himself well and loyally in the discharge of his duty, and had gained good opinion, and had acquired by his practise a good estate for the maintenance of him and his family; the Defendant said, I doubt not, but to prove that the Plaintiff hath spoken Treason (Innuendo Treason against the King) verdict was found for the plaintiff; and it was moved in arrest of judgement, that these words are not actionable.

Treason.

Time of speaking
the words,
when material.

1 Because no time is alledged when the plaintiff is supposed to speak Treason, and it might be when he was an Infant, or that it is pardoned; to which it was answered by the Court, First, that these words ought to be alledged as they were spoken, and that was indefinite. Secondly, the time is not material, unless the Defendant make it material by his plea, viz. when he was in giving evidence for the King against a Traytor, and then he repeated such words; or when that the plaintiff was frantick, and of that he intended, and so justice, there the time may come in question.

Charge indi-
rect, and not
affirmative.

2 The second Exception was, that there is not any expresse affirmative; to that it was answered by the Court, That it was more than an Affirmative, for he had (as he said) proof thereof, and not a Report or herelap; and if one say, It is reported; &c. that will not bear Action, unless hee justify the Report, by charging it upon him, which was the Author of the Report.

3 Also it was objected, That the speaking of Treason was not Treason, but it was holden clearly, that it is as well as preaching, or whispering, Et index animi sermo.

4 Also

4 Also it is not said what Treason, and it may be High, or petty Treason; To which, it was answered, that when he speaks generally of Treason, it shall be intended according to the common intendment, which is, Treason against the King, vide Sir William Mulgraves Case, Co. Lib. 4. And two Cases were vouched to be adjudged in the Point, one between Johnson and Atwood, 8 Eliz. Thou hast spoken Treason, and I will hang thee for it, adjudged actionable. The other was between Pwall and Vardoffe, 9 Jac. Thou hast spoken Treason, and I will prove it, adjudged actionable. And it was resolved by all, that the Plaintiff should have his judgement. Pasche 1 Car. 1. Huttons Rep. 75.

Case 184.

John Daws Plaintiff against William Palmer, in an Action upon the Case, and Count, That whereas hee was a Fuller, and had used the Trade of fulling, and thereby acquired his livelihood, and was of good credit, &c. The Defendant said of him, Trust him nor, for hee owes me a hundred pound, and is not worth one Groat; and at another day, hee said, He is a bankrupt Rogue; and upon not guilty pleaded, the Jurors found for the Plaintiff, and gave entire damages; and it was moved in arrest of judgement, that the first words were not actionable, and then the Jury, having given entire damages, the Plaintiff should not have judgement for any part, vide Osbornes Case. Co. lib. 10. but in this case, after many debates, it was resolved by the Court, that the Plaintiff should have judgement; for the first words are actionable at Common Law before the Statute, Trust him nor, he is not worth one Groat; Goe not to buy of I. S. (a Merchant) for he will deceive you. Of an Inne-keeper, Goe not to such an Inne, for hee is so poor that you can have no good entertainment. Of an Attorney, Use him nor, for hee will cozen you, all these words are actionable, hee will bee a bankrupt within seven daies; and for the other words, That hee is a bankrupt Rogue, that is resolved. Co. lib. 4. to be actionable.

Bankrupt of a
Trades-man.
A Fuller.

Damages en-
tire.

Words that
hurt a man in
his Trade, or
way of living.

And it was a Case, Pasch. 10 Car. 1. in a Writ of Error, brought in the Exchequer Chamber, upon judgement given in the Kings Bench, between Dunkin and Laycroft, for words spoken of a Merchant, who had been at Hamborow, in partibus transmarinis, and there had used the Trade of a Merchant and Factor. Thou (Innuendo the Plaintiff) camest over from Hamborow a broken Merchant, and adjudged actionable, and so affirmed in the Exchequer Chamber, and upon all these Authorities the Court gave judgement for the Plaintiff. pasch. 10 Car. 1. Huttons Rep. 124, 125.

Broken Mer-
chant.

Case 185.

One Widow Sower brought an Action of the Case against Burton for these words, Thou old Witch, thou old Whore, leave off thy Witching, or else thou shalt be hanged, or burned, if I can doe it; and upon not guilty pleaded, and verdict for the Plaintiff, it was moved in arrest of judgement, and it seemed to Lord Finch, Hutton and Vernon that the Action lay not, without shewing, that hee did act any Witchcraft, for which the paine of Pillory; and imprisonment for two years should be inflicted, and the second time Felony; and that the words, Thou art an Old Witch, or, Goe away thou old Witch are usual words, and Old Whore bears no Action; and as to say, Thou shalt be hanged if I can doe it, it is not possible that he could doe it.

Old Witch.
Old Whore.

But Justice Crawley doubted of it at first, because that it was alleged, that it had been adjudged in the Kings-Bench, that an Action lies for calling one Witch; but afterwards hee said, that hee had spoken with the

Witch alone
not actionable.

D q

Justices

Justices of the Kings-Bench, of their reason, who said, that they adjudged no such thing, unless that hee had spoken further, that the party had done any act of Witchcraft punishable by the Statute. Hill. 12. Car. 1. Huttons Rep. 131.

Case 186.

Slander of an
Attorney
Forgery.

Powel an Attorney, brought this Action for these words, I have matter enough against him, for Master Harley hath found Forgery, and can prove it against him; not guilty pleaded; it was found for the Plaintiff, but hee could not have Judgement. Hobb. Rep. pl. 382. 395. 399.

Case 187.

Slander of an
officer, a Town-
Clarke.

Forgery.

Pasche. 9. Car. 1. John Smith Town-clarke of Southampton, sued Cornelius an Attorney, who set forth hee was Town-Clarke to the Mayor and Burgeses there, and was their Scribe, and had the keeping of their Rolls, Pleas, and proceedings before them in their Court, &c. and that the Plaintiff spake these words of him, Thou hast made many a false certificate to the Mayor and Burgeses in that Court, and the more thou stirrest in it, the more it will sink; and it was adjudged not Actionable.

1 Because it was not alleaged, that there was any colloquium concerning his office.

2 Because it did not appear, that the making of Certificates did belong to his office.

3 They might be false, and no fault of his, unless hee knew of it. Huttons Rep. 123.

Case 188.

Charge of
Treason.

Jury found
other words.

Mich. 14. Jac. B. R. Sir John Sidnhams Case, for these words, If Sir John Sidnham might have his will, hee would kill all the true subjects of England, and the King too; and hee is a maintainer of Papistry and Rellickious persons: The Defendant pleaded, that hee spoke other words, absque hoc, &c. the Jury found these words to be the words, I think in my conscience, if Sir John Sidnham might, &c. and found all the other words verbatim, &c. And it was adjudged for the Plaintiff, and the Judgement affirmed in a writ of error, and agreed that the words are actionable, and that the words found in the verdict, are the same in substance as they are in the Declaration; and that the variance doth not hurt. Croo. 2. 407. Hobb. Rep. pl. 213.

Case 189.

Thou art a
healer of Fe-
lonies.

Thou hast
strained a
Mare.
Slander of an
officer, when
out of his office

An Action was brought for these words, Thou art a healer of Felony, and hast shewed such favour to a Horse-stealer in the time of thy Constableship, that thereby both the Horse and Theef were conveyed away, and that it lyeth in my power to hang thee: It was adjudged for the Plaintiff; for Healer of Felony, is a word known in Devonshire, where the Action is brought to be a Confealer or Hider of Felony: as in Yorkshire to say to one, Thou hast strained a Mare, will bear Action; for it is commonly taken to steal a Mare: And notwithstanding it be not laid expressly, that the Plaintiff was Constable at the time of the speaking of the words. It is not material, for albeit hee be out of his office, yet hee ought not to be Slandered with any thing done in his office; as if a Justice of Peace be put out of Commission, and one shall say to him, when thou wert Justice, thou wert a Bribing Justice, this is actionable, for albeit it referre to a thing past, yet it doth defame him for ever, in the opinion of others, and will make him to be accounted unworthy to bear office again. Quod nota. Pasche. 7. Jac. B. R. Pridham against Tucker. Yelvertons Rep. 153.

Case

Case 190.

The Plaintiff declared, that whereas he was a Free-man of Wells, and did exercise the Art of Wistery of a Linnen-Draper within the same City, by the space of five years past, and by his credit, &c. had gained much, &c. by selling and buying, &c. That the defendant, the twenty eighth of July, Ando quinto, &c. spake to the same Plaintiff, and to A. B. viz. you both (Innuendo) the Plaintiff and A. B. are Bankrupts, and not worth a Groat, ad damnum, &c. And it was found by Verdict for the Plaintiff, and it was moved that the Declaration is not good, because it was not laid precisely, that at the time of the speaking of the words, that the Plaintiff was a Linnen-Draper, but only by the space of five years past, to which Yelverton answered; That there is a diversity between Slanders of one in respect of an office, and in respect of a Trade or Profession, for if one say to a Justice of Peace, hee is a Briber, &c. Hee ought to shew in an Action for these words, expressly in his Declaration, that hee was a Justice of Peace at the time of the words spoken, because it soundeth in Slander of his person in respect of his office only, which office endures but at the will of the King, being by commission. But where a man is Slandered in his Profession or Trade, there it need not be so precisely alledged, that at the time of the words spoken hee was a Lawyer, Physician, Merchant, or Linnen-Draper, but it sufficeth to shew that hee is of such a Trade, and hath exercised it for divers years past, without saying (ultimo) or (jam) elaps: for a man shall not be intended to alter his trade or profession, but by presumption to continue it during his life. Quod fuit concessum per curiam, quod nota. And the Judgement was affirmed, vid. Trin. 6. Jac. Rot. 1272. For the Case. Accords. Trin. 38. Eliz. B. R. Rot. 546. Inter Gardner Plaintiff, & Hopwood Defendant, upon the same words, Thou art a Bankrupt, the Plaintiff alledging. Quod per multos annos jam retro actos artem Merchandizandi videndi, et licite barganizandi exercuit et usus fuit, and Judgement was given for the Plaintiff, Tutchill vers. Milton. Trin. 7. Jac. B. R. Yelvertons Rep. 158. 159.

Bankrupt of a
Tradesman,
Linnen-draper.

Declaration,
how, it must be
that hee was a
Tradesman,
&c.

Case 191.

The Action was brought for this. Thou art an arrant Knave, for thou hast bought stolen Swine, and a stolen Cow, knowing them to be stolen; adjudged against the Plaintiff; for the receipt or sale of goods stolen is not felony, nor will it make one accessory, unless it be joyned with the receipt or abetment of the felon himself; For in some Cases it is lawful to receive stolen goods; as if a Lord of a Manor that hath, bona waivata, met with the Thief and the goods about him, and saith, you have stolen these goods, and hee confesseth it and spe. Per Gawdie, Fenner et Yelverton, Popham absente. Trin. 44. Eliz. B. R. Dawsons Case. Yelvertons Rep. 5.

Accessory to
Felony.
Receipt of
stolen goods.

Case 192.

Brooke against Mountague, Recorder of London. And the Action was for these words, spoken of the Plaintiff, That hee had committed Felony, and upon not guilty pleaded, it was found, that hee was of counsel, with the Defendant in an Action, and that hee, in giving of evidence to the Jury spake the words, and that they were pertinent to the matter in issue, and it was ruled against the Plaintiff, albeit the words were false. Mich. 31. Jac. B. R. And agreed that so it will be in an appeal of Murder, if the Counsel say the Plaintiff did commit the Murder. But if it were in trespass for a Battery, that such words were spoken, they may be actionable: And so also if the words were never so much pertinent, if the Counsel speak them at another time, or in another place, they may be actionable.

Charge of
Felony in a
course of Ju-
stice.
Slander of a
Lawyer

able: The Case of Parson Prit in Suffolk. Croo. 2. 90.

Case 193.

Constables.

Church-War-
dens.

Charge of cou-
zening a Town.

Pasche. 12. Jac. B. R. Hutton versus Beck, for these words, spoken to a Constable, and Church-warden of a Parish, viz. Thou hast beguiled and deceived the Town [Innuendo, the Inhabitants of the Village of A.] upon thy accounts of four pound. And it is no marvel thou growest rich, when thou deceivest the Town. And it was adjudged with the Defendant against the Plaintiff, that the words were not actionable, for they were too general. Croo. 2. 339.

Case 194.

Charge of a
Rape, by which
a match was
lost.

Place of speak-
ing the words.

Taylor brought the Action against Tally, That whereas there was talk between the Defendant, and J. S. such a day, in such a place, concerning a Marriage to be had between the Plaintiff, and the Daughter of J. S. Super quod Colloquium; The Defendant in presentia diversarum personarum cum present. hæc Anglicana verba dixit to J. S. of the Plaintiff, Will you cast away your Daughter upon Taylor, to which J. S. said, why? to whom the Defendant answered, Taylor ravished the wife of J. D. upon which the Marriage did not take effect, &c. Upon not guilty pleaded, it was found for the Plaintiff, and moved in arrest of Judgement, that the place where the words were spoken, was uncertain; for albeit it be said, that the talk was at such a place, yet it is not said where the scandalous words were spoken, Richardson contra, and that they were spoken at the same place, where the talk was, for the time and the place are consigned by the Adversb, Tunc present, and in a Court there need not that certainty, as in an Indictment. Quod Car. Concessit, and so here the Super. Quod is the Commencement of a new sentence, and for the words supposed to be spoken, no place is mentioned. Doderidge accord. Ergo per Car. quer. nil capiat per billam. Taylor versus Tally. 21. Jac. Benlowes Rep. 128.

Case 195.

Charge of
Murder.

Accord pleaded

Poyson.

Pleading in
this Action.

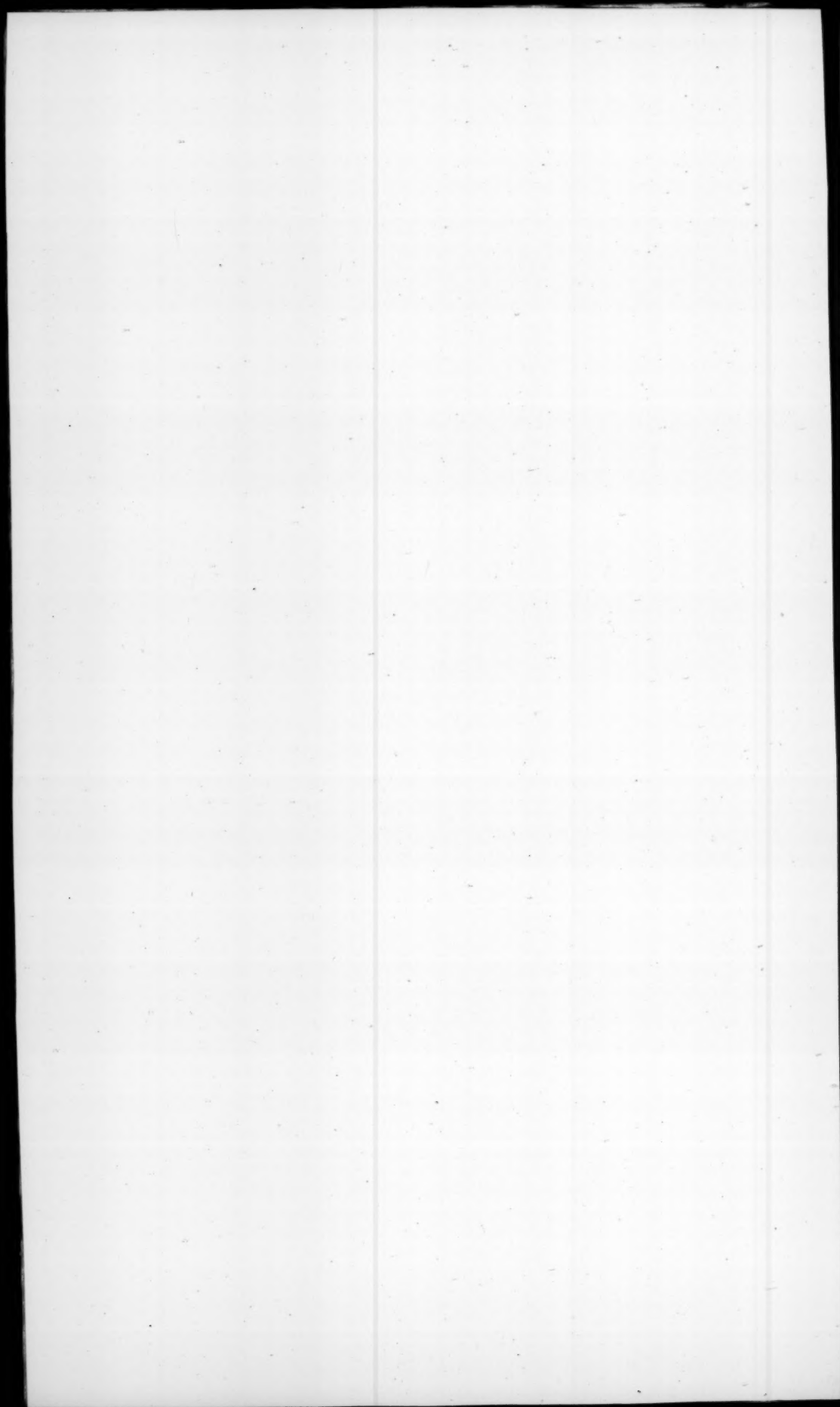
Davis brought an Action upon the Case against Ockham, for speaking these words of him, The Knave, the Apothecary, that married my Sister, hath poisoned my Uncle, and I will have him taken up again, to hang him. The Defendant pleaded an Accord betwixt him, and the Plaintiff, that whereas the Plaintiff had done a trespass against him, that one trespass should be set against the other. To this plea the Plaintiff demurred, and Twilden said, the Plea was not good, and cited 16. Ed. 4. f. 89. and prayed Judgement for the Plaintiff. Larch. of Counsel with the Defendant, said, that the Accord was executed on the Defendants part. and therefore may be pleaded in Barr. To this Roll Chief Justice answered, how have you discharged the Accord? for you do not shew it. Larch took exceptions to the Plaintiffs Declaration.

1 That the words set forth, are not actionable, for it doth not expresse that the Plaintiff wittingly poisoned the Defendants Uncle, or that hee did dye of the poyson, and cited Hobb. Rep. 8. Miles and Jacobs Case, and 275. Fleetwood and Caveleys Case.

2 There is no Communication expresse in the Declaration to be of the Uncle, and it may be spoken of another Uncle, and the Innuendo will not help it, because hee may have divers Uncles. Twilden answered, that it is implied in the sense of the words, that hee poisoned him feloniously, and so consequently wittingly.

And 3. Hee saith, that hee will have him digged up, and so it must be intended; that hee died of the poyson; Roll Chief Justice held, that the words are actionable.

And



And 4. That the Defendants plea in Bar is not good, Jerman Justice held the plea in bar not good, but he doubted whether the Declaration was good, for it doth not appear thereby, whether the party died of the poison, and the latter words help it not. Nicholas Justice, and Aske Justice agreed with Rolls in all, and thereupon the Rule was, *Judicium Nisi, Lunedi Suivant*. Styles Rep. 247.

Case 196. *1207* at *1001* a *1001* of *1001*

Rosse brought an Action of the Case against Lawrence, for speaking these Welsh words of him, viz. *Dedingues Will, Rosse in Mudon*, which are in English, William Rosse hath sworn himself, upon illie joyne, and a Verdict for the Plaintiff, the Defendant moved in Arrest of Judgement, that the words are not actionable, as they are rendered in English, Welsh, and so the Action lies not. Roll Chief Justice, if the words found in Welsh that the Plaintiff was perjured, yet if the Plaintiff do english them in English, which doth not amount to Perjury, it is ill, and an Action will not lie for them. Therefore let Judgement be said. Styles Rep. 263.

Slander in another language.

Case 197. *1207* at *1001* a *1001* of *1001*

After a Verdict in an Action upon the Case, brought for these words, viz. I was never a Traitor to the State, as you have been: It was moved in Arrest of Judgement by Turner, for the uncertainty of the Declaration, for that it appears not thereby, that the words were spoken of the Plaintiff, or to the Plaintiff, and because it is not said, that the words were spoken falso & malitiose. Shatto of Council on the other side answered, that it appears the words were spoken upon conference between the parties, and thereby doth appear a sufficient Averment, that the words were spoken of the Plaintiff. Roll Chief Justice. The Declaration implies, that the words were spoken falso & malitiose, and there needs not an express Averment, that they were so spoken, as there ought to be in an Indictment, and this Declaration is laid two years after the words were spoken. Therefore take your judgement, except better matter be shewn. Styles Rep. 279.

Treason.
Uncertainty in the person slandered.
Falso & malitiose.
Averment.

Case 198. *1207* at *1001* a *1001* of *1001*

Townsend brought an Action upon the Case against Barker, that had been a Co-partner with him in Trade, for speaking these words of him, You are a couzening Knave, and did couzen mee of twelve hundred pound at one time, and that was in making an account in the year 1648. Upon a Verdict for the Plaintiff, it was moved in Arrest of Judgement, that the words are not actionable, because, though they be spoken of a Trades-man, yet they are not spoken of him in reference to his Trade, but in reference to an account: and although by way of reduction and consequence they may reflect upon his honesty, yet they are not actionable, and though his Reputation be impaired by speaking them, yet he cannot be indicted for couzening in his Trade, by reason of them, because they are spoken of a singular and particular abuse, and not of a general couzening used in his Trade, and an Action of the Case lies not for words which are only scandalous, by way of Reduction; and if the words should hinder the party to get a partner hereafter, to trade with him, yet he may use his Trade, and so cannot be prejudiced. For are the words, that he cheated him, but that he couzened him, which are not of so violent a Construction. Wild on the other side said, that here is a Partnership which is necessary to the driving of a Trade, and without which it cannot be so well driven, and the account is incident to all Partnerships, and prayed for Judgement. Roll Chief Justice, if the Co-partnership continued, the words were actionable without doubt. For then they must be spoken of him in the way of his Trade; but here the Partnership being ended, makes the matter more

Couzening a Knave.

Trades-man.

Co-partners in Trade.

considerable; but yet as it is, the words are scandalous, and may hinder from getting a partner for the time to come; and it may be he cannot manage his Trade without a partner, and although an account be a private thing, yet the Plaintiff is disgraced by the speaking of the words, and none will deal with a man, that will conzen his own partner; and we must countenance Trade and Traffick, and mens Credits; and the account is not so collateral a thing to trade as Hales objects, as is the hiring of a shop to trade in, or the like. German Justice ad idem, and said, that Co-partnership is necessary to support Trade, and the keeping of a true account is the principal thing between Partners, Nicholas and Aske, Justices ad idem. *Judicium nisi pro quarenter*. Styles Rep. 389.

Case 199.

Treason.

Words in-
certain
as to the
person slan-
dered.

Scandalum
Magnatum.

Officer slan-
dered.

Bankrupt

Papist.

Untrue man to
the King.

Sir William Walgrave brought an Action upon the Case against Agur. Upon these words, spoken by the Defendant to a Servant of the Plaintiff, it is well known that I am a true Subject, but thou (Imitando, the said Servant) servest no true Subject, and thine own conscience may accuse thee thereof. It was moved in arrest of Judgment, that these words are not actionable, for no slander comes to the Plaintiff thereby; for perhaps the party served no man, but the Queen, and if the words may receive such sense, which is no pregnant proof of Insamy, they are not action-able, as in the Case betwixt Savage and Cook. These words, Thou art not the Queens friend, are not actionable, for it might be they were spoken in respect of some ordinary misdemeanour, as in not payment of subsidies, or the like: Also it is not averred, that the party to whom the words spoken, was the Plaintiffs Servant. Cook, where a man is touched in the duty of his office, or in the course of life, an Action lyeth, although that otherwise the words are not actionable, and here is set forth in the Declaration: That the Plaintiff at the time of speaking of the said words, was a Justice of Peace, and Sheriff of Suffolk, and Captain of a Troop of a hundred and twenty horse, to attend the preservation of the Queens person: So in respect of place and dignity in the Common-wealth, as 1. H. 8. The Bishop of Winchester brought an Action upon the Statute of Scandal. Magnatum, upon these words, My Lord of Winchester, sent for mee, and imprisoned mee, until I made a release to J.S. and in respect of his place and dignity, the words were holden actionable: And y. Eliz. Dyer, in an Action upon the Case by the Lord Aburgavenny against Wheeler, My Lord of Aburgavenny sent for us, and put some of us into the Coal-house, and some into the Stocks, and mee into a place in his house called Little-Ease, and the words were holden actionable: So in our Case (Lewes said) it was the Case of one Kinty; one said to a Bayliff of a franchise, Thou didst execute false VVarrants, without saying, they were falsified by him, avowed an Action did not lye, VVray Chief Justice. These words in themselves are not actionable, for the Plaintiff might be untrue in small things, which gave no discredit, but the quality of the person of whom they were spoken, may add weight to them, as to call one Bankrupt generally, no Action lyeth upon it, but to call a Merchant so, is actionable. So to call one Papist, no Action lyeth for it; but if one calls the Arch-Bishop of Canterbury so, an Action will lye, for he is Governor of the Church. Thou art an untrue man to the Queen, gives not an Action to an ordi- nary Subject, but such words spoken of one of the Privy Councill, are actionable. Corrupt man, of themselves are not actionable, but being spoken of a Judge, an Action lyeth.

It was Birchleys Case, an Attorney of this Court, Thou art a cor-rupt

rupt man and dealest corruptly, and it was adjudged per curiam, that the words were actionable; for that refers to his Calling. Gawdy was of opinion, that the words were actionable of themselves, without respect had to the quality of the person of whom they were spoken, for the words are particular enough, and to touch him in the duty of a Subject, which is to be faithful to his natural Prince, is a great reproach and slander. Fenner conceived, that the words were not actionable; Wray, as before, of themselves they are not actionable, for they are in general, for if he be indicted of Treaspasse he is not a good Subject. Leonards Rep. Case 469. M. 32 Eliz. B. R.

Slander of an Officer.

Case 200.

Mich. 1 Car. 1. Co. B. Sir John Isham a Justice of Peace near York for these words, I have been oft with Sir John Isham for justice, but could never get any at his hand, but injustice. Croo. 1. 10.

Slander of a Justice of Peace.

Case 201.

Hill. 2 Jac. B. R. Sir John Hollis versus Briscoe and his Wife, for this; first shewing, That he was a Justice of Peace in the County of N. and had been Sheriff of the County, and then for seven years before was Deputy Lieutenant there; that the Defendants Wife said to A. and B. the Plaintiffs servants, Your Master [Inuendo the Plaintiff,] is a base Rascally Villaine, and is neither Nobleman, Knight, nor Gentleman, but a most villanous Rascal, and by unjust means most villanously, take other mens Rights from them, and keeps a company of Thieves and Traytors to doe mischief, and gives them nothing for their labour but base blew Liveries, and this all the Country reports, and other good he doth not any; and it was adjudged for the Defendant; yet two of the two Judges held them actionable, but they all agreed none of the words could be actionable but those. He keeps a company of Thieves and Traytors to doe mischief. Croo. 2. 58, 59. and in Yelverton. 64.

Slander of a Justice of Peace.

Keeps Thieves and Traytors about him.

Case 202.

Palche. 3 Jac. B. R. Sir George Moores Case was this. That there being a Suit in Chancery between Richard King and two others, and a Commission by assent of the parties thereto to him and three others, Ad examinandum testes, &c. audiendum &c. terminandum if they could, and if they could not to certify, &c. the Defendant said of the Plaintiff these words, Sir George Moore is a corrupt man, and hath taken Bribes of Rich. King [Inuendo that he hath taken Bribes of Rich. King for the executing of that Commission] And said further, That Richard King hath set Sir George Moore on Horseback with his Bribes, to pervert Justice and Equity; upon not guilty pleaded, and a verdict, the Plaintiff had judgement. Croo. 2. 65. also in Yelverton 62.

Slander of a Commissioner out of Chancery with Bribery.

Case 203.

Mich. 3 Jac. B. R. Kempe versus Howsegoe, for these words spoken of him being a Justice of Peace, Kempe is a Basket Justice, a partial Justice, I will give him five pound every Year for his Gifts about Justice-matters; and it was held that for the words partial Justice the Action will lye, but that none of the rest of the words are actionable. Croo. 2. 90.

Slander of a Justice of Peace Partial Justice.

Case 204.

Palche. 18 Jac. B. R. May versus Gibbons. The Action was for these words, Have you brought home the forty pound you stole? and they were adjudged actionable, though spoken by way of interrogation, and the judgement was affirmed in a writ of Error brought upon it. Croo. 2 part. 568.

Charge of Theft. Slander by way of interrogation.

Bankrupt of a
Shoo-maker.

Case 205.
Crumpe versus Barne, Pasche. 2 Car. 1. Col B. The Plaintiff he was a Citizen of Gloucester, and had so been for twelve years, and all that time used the Trade of a Shoo-maker; and that the Defendant said of him Hee is a Bankrupt Rogue; and it was adjudged for the Plaintiff. Croo. 1. 21.

Loss of prefer-
ment by words.

Couzening.

Case 206.
Wicks versus Shephard in the Exchequer. Pasche. 5 Car. 1. hee set forth, That he was in Treaty for a Wife, and like to have her, and that the Defendant to hinder him thereof spake this of him, Hee is a Tharking Fellow, and getteth his living by deceit, and used himself violently to his former Wife, and denied her necessaries, and is a needy Fellow, and his conditions are wicked; and for his Religion hee is a Brownist; by reason whereof he lost his marriage. And it was adjudged for the Plaintiff, but agreed that it was by reason of his losse only, and that otherwise the words were not actionable. Croo. 1. 110.

Charge of theft.
Incertainity in
the person slan-
dered.

Case 207.
Mich. 5 Car. 1. B. R. Shaliver sued Foster and his Wife, for these words, spoken by the Wife of the Defendant, of the Plaintiff to Anne Rochester, the Plaintiffs Mother, Where is that lying thief thy Son, [Inuendo the Plaintiff] he hath murdered my Aunt [quandam Dorotheam Stoke Amiram defendentis Inuendo] and I will prove it; and upon a not guilty, it being found for the Plaintiff, it was doubted because it was not alleged, That there was a precedent communication of the Plaintiff, or that he was the only Son of Anne Rochester to whom the words were spoken; and the Court would advise. Croo. 1. 117.

Bankrupt.

Trades-man.

Charge of
Robbery.

Case 208.
Trin. 8 Car. 1. B. R. Goodyear versus Bishop, for this, That whereas the Plaintiff is, and for divers years hath been a Merchant, and used the Trade of a Merchant, that the Defendant speaking of him, said, to one Harris, Hee is not worth a Groat, he is a hundred pound worse than naught, and it was adjudged actionable. Croo. 1. 193.

Case 209.
Mich. 8 Car. 1. B. R. Lawrence sued Woodward for this, Thou didst violently upon the High-way take my purse from me, and four shillings two pence in it; and didst threaten me to cut me off in the midsts, but I was forced to run away to save my life; and it was adjudged for the Plaintiff. Croo. 1. 195.

Couzened the
State.

Case 210.
Trin. 164. Henley and Bayntons Case, for these words, You have couzened the State of twenty thousand pound, and I will prove it, for you have received five and twenty thousand pounds profits of the office, and not compounded for it, and have foylsted in words into the order of your composition, and after a verdict for it, it was adjudged for the Plaintiff. Stiles Rep. 436.

Adjective
words.
Whore.
Pox.
Inuendo.

Case 211.
Mich. 17 Jac. B. R. Califord and his Wife against Knight, for these words, Thou art Murcombes Hackney, thou art a theeving VVhore, and a pocky VVhore [Inuendo that the said Jones had the French Pox] and I will prove thee a pocky whore, and it was adjudged against the Plaintiff, that the words were not actionable, and that the Inuendo did not extend them beyond their common sense. Croo. 2. 514.

Case 212.

Pasche. 16. Jac. B. R. Barmunds Case, for these words, hee hath had two Bastards, and should have kept them, by reason of which words discord did arise between him and his wife, and they were likely to have been divorced: And it was adjudged against the plaintiff, for that hee did not set forth any special damage that came to him by the words spoken. Croo. 2. 473.

Charge of
Incontinency.

Averment.

Case 213.

Mich. 10. Jac. B. R. Toofes Case, for these words, Toofes his wife [Innuendo the plaintiff] killed thy Husband [Innuendo] John Dunscombe her husband lately dead. And after verdict it was adjudged for the plaintiff, and that the words were Actionable; albeit it were objected, that the words were too general, for hee might kill him by physick, and it might not bee Felony. Croo. 2. 306.

Charge of Mur-
der of a Hus-
band.

Words general

Case 214.

Foxcroft brought an Action of the Case against Lacy, and declared, that whereas Lacy and four others were Defendants in a suit, concerning Conspiracies, &c. and that communication was moved between John Walter and Richard Gwyn Esquires, concerning the said suit, that the said Defendant Lacy upon the said communication in their presence spake these words, These Defendants, meaning the Plaintiff, and the other 4, are those that helped to Murther Henry Father, meaning our Henry deceased, who was murdered by one Thomas Gulsfield, who was hanged for it, to the plaintiffs damage, &c. The defendant denyeth the words, and found for the plaintiff, and Judgement given, error was assigned generally, that the Judgement should have been contrary, but Judgement was affirmed, for it was holden, that it was sufficiently laid to entitle every one of the defendants to a severall Action, as if they had been especially named. Hobarts Rep. 119.

Charge of
Murder.

Incertainty in
the person slan-
dered.

Case 215.

In the Exchequer an Action of the Case was brought by R. D. against W. T. for calling him Idoner in the Welsh tongue, and did not aver what the word did import, and yet Judgement was given for the plaintiff, and the Court took Information by Welshmen, what the word meant in English. And the like Judgement in the Common-pleas, and upon the like form of Declaration, were found in search in the Common-pleas, between William Verch Howel, against Evan George, for a Slander in Welsh words. Trin. 43. Eliz. rot. 3034. and another. Pasche. 44. Eliz. Rot. 8034. And at this time Serjeant John Moore informed the Court, that Judgement had been given in the Kings-Bench, 6. Jac. in the Case of one Tuck, upon these words, thou art a healer of Felons, without any averment how the words were taken, because the Court was informed, and took knowledge, that in some Countries, it was taken for a smotherer of Felons. Hobb. 155.

Slander in ano-
ther tongue
Welsh.

Healer of
Felons

Averment.

Case 216.

James Steward brought an Action of the Case against Bishop, for saying of him, Innuendo, &c. in Warwick Gaol, for stealing of a Hare and other Beasts; and after a verdict for the plaintiff, upon divers motions in Arrest of Judgement, the whole Court gave opinion Seriatim, that the words would not bear Action; for they do not affirm directly, that hee did steal the Beasts, as if hee had said that hee stole them, and was in Gaol for it; but they do only make Report of his Imprisonment and the supposed reason of it, and it may very well be, that the Warrant or Micimus was for stealing expressly, as is the common form of making of the Kalender,

Charge of
Theft.

Indirect words
of charge.

of the Prisoners for the Justices of Assize, and the like. Hob.
196.

I will prove
thee a Thief.

Mich. 6 Jac. B. R. Frank, versus Allop, in the Exchequer Chamber
upon a writ of Error, after a judgement given in the Kings Bench for
these words, I will prove thee a thief, and a plotter of thecovery, and I
will prove it by thine own Son, or I will send him to the Devil. And it
was adjudged that the words were not actionable, and therefore the former
judgement was reversed. Croo. 214.

Treason.

Will. 5 Jac. B. R. Smith versus Turner, for these words, Thou art no
true Subject to the King, and that I will prove; upon not guilty pleaded,
and a verdict found for the Plaintiff; upon motion for arrest of judgement
it was adjudged against the Plaintiff, and that the words were not action-
able, for they were too general and incertaine. Croo. 2. 202. and Yel-
verton 104.

Charge of
Murder.

Incertainty in
the words.

Mich. 5 Jac. B. R. Sir Tho. Holts Case, for these words, Sir Tho. Holt
struck his Cook on the head with a Cleaver, and cleaved his head, the one
part lay on the one shoulder, and another part on the other; upon not
guilty pleaded, and a verdict for the Plaintiff, but moved in arrest of
judgement, and adjudged by the Court, that the words were not action-
able, because it was not averred that the Cook was killed, but Argumentum
tunc, for notwithstanding the wounding, the Party may be yet alive, and
the slander that is actionable must be direct, against which there may not be
any intendment. Croo. 2. 184.

Slander of a ti-
tle to Land.

Case 220. Mildmay brought an Action of the Case against Standish, for saying,
The Land was lawfully assured to John Talbot for one thousand six
hundred years, and that he was thereof lawfully possessed, whereas in
truth some such estate was made, but the same was not legally made; nor
was John Talbot thereby legally interested in the Fee; for it was
true, that he had a limitation of such an estate by a Will, which was the
reason why he made the words, yet because he took upon him the know-
ledge of the Law, and did meddle with a matter did not concern him,
judgement was given for the Plaintiff. Mildmay versus Standish. Croo.
278.

Witch.

Case 221. Hill, 4 Jac. B. R. Edwards Case for these words, Thou art a Witch, and
I will prove thee a VVitch. And it was adjudged for the Plaintiff;
Croo. 2. 150.

Charge of Per-
jury.

Case 222. Mich. 3 Car. B. R. Turners Case for these words, Hee [Predict. quer.
Intuendo] and one Allen are perjured Knaves; upon not guilty pleaded,
it was found for the Plaintiff, and it was adjudged for the Plaintiff; al-
beit it were objected, that (Hee) cannot refer to two persons, and are
perjured persons, cannot be referred to one person; but the Court held it
well, albeit it be false english, for the sense appeareth; and that it is not
like to the Case where one saith, that I. S. and I. D. is perjured; or if one
say to thee, that one of you is perjured, this is words for incertainty.
Croo. 2. 101, 102.

slander of a ti-
tle to Land.

Case 223. Margaret Blisse, who was in remainder after an estate in Tayl, did
bring an Action on the Case against Edward Stafford, for slandering
her

her Title, in affirming, that A. had issue on B. who is alive, and the Defendant pleaded, not guilty, and the Action adjudged by all. But did abate for an exception to the Court. *Owens Rep. 37.* *Case 224.*

Hill. 3. Jac. B. R. William Wilkins Case. For these words, that the Defendant said, de præfatis Quærentem existentem et in factis naturalis, My Brother [præfat. Quærentem Innuendo] is perjured. Upon not guilty pleaded, and verdict for the Plaintiff; it was, after motion to arrest the Judgement, adjudged for the Plaintiff. Although it were said, that the words be uncertain, what Brother he intended, and it may be he had others Brethren, and that the Innuendo will not help, for that actionable words must import in themselves precise slander, without ambiguity, so that every one that hears them may intend of whom they be spoken. For it was said, that he spake the words of the Plaintiff, and the Jury found him guilty. And this difference was taken, where the words in themselves import apparent uncertainty, and when they may be ascertained by Intendment. In the first Case no Averment will aid it. But in the last Case by an Averment, and a Verdict, it may be aided. And therefore where the words be, One of my Brothers is perjured, this is so uncertain, that neither of them can bring an Action; and if he be found guilty by Verdict, it will not help. But here it did not appear that he had more Brothers than one, and then it may be certain enough, and here it is expressly averred to be spoken of him, and the Jury hath found him guilty; and therefore it is here certain enough. And this Case was cited by the Court to be adjudged for the Plaintiff. That murderous Knave Stroughton lay in wait to murder mee. And upon this one Thomas Stroughton brought the Action, and said, they were spoken of him. And upon not guilty pleaded, and a Verdict for the Plaintiff, it was adjudged after divers motions, to arrest the Judgement for the Plaintiff. *Croo. 2. 108.*

Perjury.

Uncertainty in the person slandered.

Averment.

Sir Thomas Gresham versus Grindley. Thy Brother was a fool, and was never born to do himself any good; for that he could not hold his hand from ratifying and subscribing to his Fathers Will; notwithstanding I have that to shew in my house, that if his heir Elizabeth Gresham do not any such Act, as hee hath done, it shall bring her to inherit Tiesley. Sir Tho. upon this, sues the Defendant, And shews how his father was seized of the Mannor of Tiesley, and of other Lands, and by his will devised to A. his wife for life, the Remainder in Tail to the Plaintiff, and how the father had issue William the eldest, which had issue Elizabeth his Daughter and Heir, and this Plaintiff the youngest Son, and that A. is dead; and the Plaintiff entered, and the Defendant to slander his Title, spake these words before, and shewed further how he had an intention to make a Joynture to his Wife, and to passe divers parcels of the Land devised to him to his younger children, for their advancements, and that he was hindered in his intent, by these words, ad damnum a hundred pound, and upon not guilty pleaded, it was found for the Plaintiff, and twenty pound damages. But Judgement was given for the Defendant.

Slander of a Title to Land.

For that it doth not appear by any thing in the Declaration, that the Plaintiff is damaged, viz. that hee was about to sell it, or had entered into any Bond, to make a Joynture to his wife, which by reason of these words would not be accepted; and there might to be some special matter shewed, in which damage may be apparent. *Coo. 4. 18.* For upon such general words, no special slander may be imputed. As if a Lease for life be with a condition to re-enter, and J. S. shall say, That hee can shew that

which will bring him in Reversion to the possession; this is no slander of the Title, for the very Lease it self, by the Indenture by which the Land was devised, will bring him to it, either by the condition, or by the determination of the estate.

2. For that it both appear by the Plaintiffs own shewing, that Elizabeth is Heir at Common Law, and that the Plaintiff himself had but an estate tail; and upon the determination of it, Elizabeth will have Tinsley as general Heir; and the Defendant doth not shew any time certain, when Elizabeth shall have it; but indefinitely; and this shall be taken in meliori sensu. Yelverton. Rep. 88; Co. lib. 4. Ric. 35.

Cafe 226.

Slander of a
Title to Land.

Mich. 4. Jac. B. R. Earl of Northumberland versus Birches. In an Action for the slander of a Title. The Plaintiff declared, that Henry Earl of Arundel, was seized in Fee of the Mannor of D. and gave it to the plaintiff in tail, and that the Defendant was a Customary Tenant for life of a messuage, parcel of the said Mannor. And the Plaintiff was in Communication with J. S. to make a Lease for years to him; to make a Lease for years of the Land to him, to begin after the estate of the Defendant, for life was determined, for which J. S. agreed to give him five hundred pound, that the Defendant intending to hinder that bargain, and slander his Title, spake these words: The late Earl of Arundel, Lord of the Mannor of D. did make a Lease of my Tenement to one J. D. for sixty years, to begin after my customary estate ended; and the same is a good Lease: Whereas the said Earl did not make such a Lease, by reason whereof, neither J. S. nor any other person would give him ten pound for the Lease. The Defendant justified, that Henry Earl of Arundel, before the Gift made to the Plaintiff, made such a Lease to J. S. for sixty years, and that J. S. conveyed the Lease to him. It was objected, that the words import not any slander, nor is it alleged when the Earl made the Lease. But the opinion of the Court was, that the words shall be taken in the worst sense, according to his intent which he spake, when he said it to be a good Lease. And the words themselves imply, that he spake them to countenance the Title of a stranger, which is not lawful; and now he cannot excuse himself by intitling of himself, when at the first the words did not import as much; and now he cometh too late to justify. Cro. 2. 163.

Cafe 227.

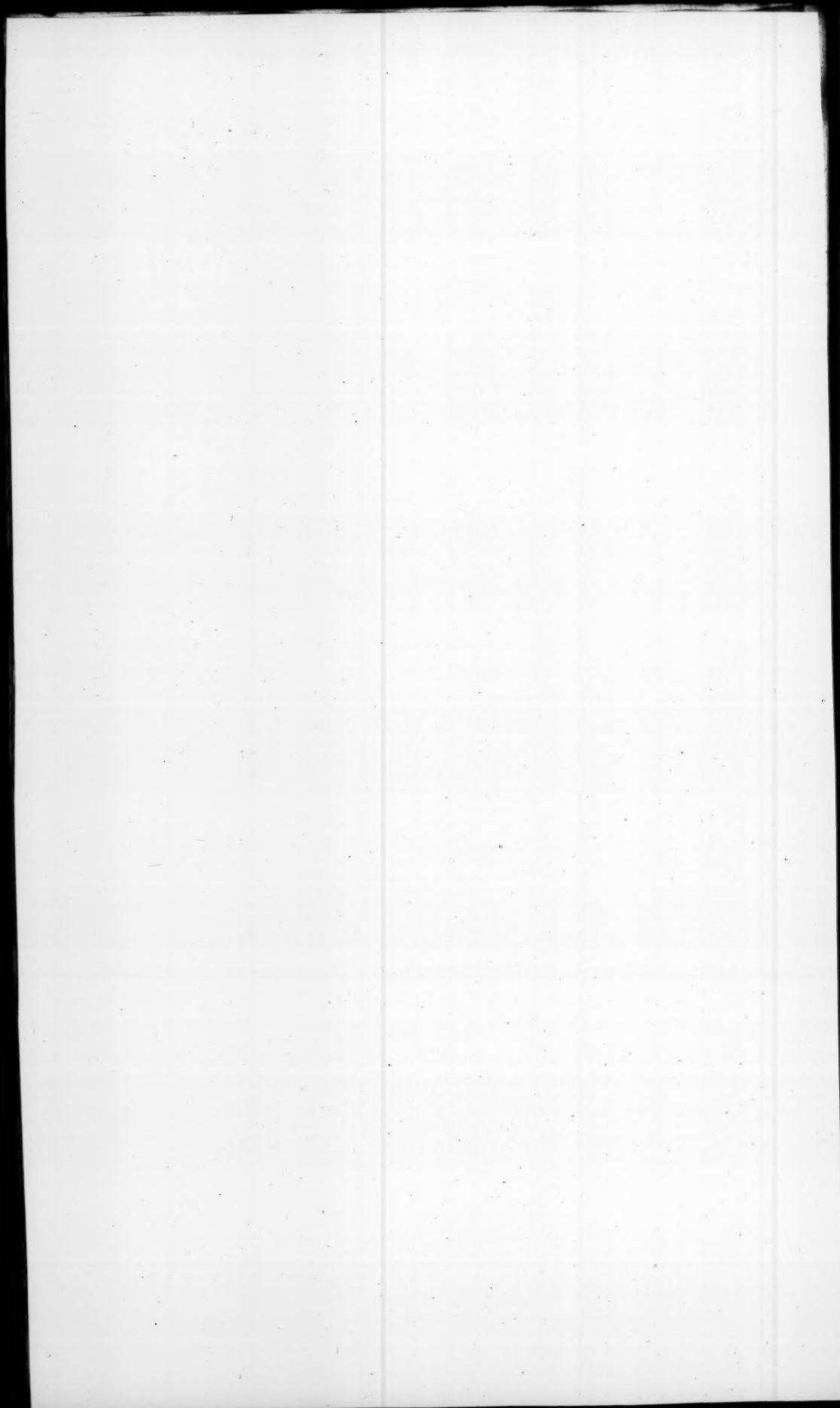
Slander of a
Title to Land.

M. 3. Car. B. R. Law and Harwoods Case. In this Action for a slander of a Title. The Plaintiff declared, that he was seized in Fee as a Copyholder of Land in D. within the Jurisdiction of the Defendants Court, and that the Defendant said, Hee had not any title to those Lands; It was found for the Plaintiff. And upon a Writ of Error brought, the Judgment was reversed, because the plaintiff did not shew, that by occasion of the words, hee had any prejudice, as by any bargain of Inheritance, or Lease of the Land. And this Action is not maintainable, without shewing a special prejudice. Cro. 1. part last publisht. 99.

Cafe 228.

Slander of a
Title.

M. 6. Jac. B. R. Vaughan versus Ellis. M. 6. Jac. B. R. Error of a Judgment in the Exchequer Chamber, in an Action of the Case for words, for saying, Hee is a Bastard. The Error assigned was, that the Action lies not for these words, without special cause shewn that he was damaged by them; as to allege, that hee was inheritable to some Lands, and that by reason of those words hee is to have losse: And here it is shewn that such Land was given to his Grandfather, and that his Father had divers Sons, whereof the plaintiff is the youngest, and his elder Brothers are living. And



And that such a one was to buy the Land, and offered him such a summe of money for his title, and by reason of those words refused to give him any thing. So it appears by his own shewing that he hath not any present title, and therefore no cause of Action at all. But the two chief Justices conceived, that although he hath not any present Title, it appears hee is by a possibility inheritable to those Lands, and being offered a summe of money for that possibility to joyn in the assurance, although he hath not any present title to the Land, yet by reason of those words hee had a present damage, and in future might receive prejudice thereby, in case hee were to claime any Land by descent. And for these causes they held that the words were actionable; and the judgement was affirmed. Croo. 2. 213.

Case 229.

2 Car. B. R. Reynor vers. Haller. The Action was brought for these words, (viz.) Reynor is a base Gentleman, and hath four Children by his servant Agnes, and he hath killed them all, or caused them to be killed. And after a verdict for the Plaintiff, and a motion for to arrest the judgement, judgement was given for the Plaintiff; and there it was said to be adjudged not to lye for these words, Agnes Knight is a Witch; and by Dodridge these words, Hee hath four Children by his servant Agnes, alone are not actionable; but Whirllock contra. And by Justice Jones it lyeth not for saying, One is a Bastard, and by him, it lyeth not for saying, Thou hast killed I. S. where in truth there never was any such man. But to say, Thou hast killed the King. Contra.

Witch.

Incontinency,
For saying one
is a Bastard.

Case 230.

Mich. 40 Eliz. In an Action of the Case for calling one Bastard. Dyer and Walsh Justices said, an Action would lye, but Brown on the contrary, because it must be tried in the Spiritual Court.

For calling one
Bastard.

And Dyer said, that at Barwick Assizes a Formedon in Dicender was brought, and one said, That his Father by whom he claimed was a Bastard, and thereupon he brought an Action against him for those words, and recovered.

Case 231.

The Clerk said, That he had a Son in Nottinghamshire, and that he had his Chest picked, and a hundred pound taken out of it in one Locksmiths house, and I thank God I have found the Thief who it is, it is one that dwelleth in the next house called Robert Kinglston, whereupon Kinglston brought this Action, without averment that he did live in the next house, and had a verdict for him, and it was held not good, for lack of this averment. Pasche 7. Jac. B. R.

Charge of
Theft.
Incertaincy.
Averment.

Case 232.

Action for these words, There was never a Robbery committed within forty miles of Wellingborough but thou hadst thy part in it; after verdict, it was moved in arrest of judgement that the Action did not lye, because it was not averred there was any Robbery committed within forty miles, &c. for otherwise it is no slander, & sic opinio cur, and judgement for the Defendant. Mich. 36, & 37 Eliz. B. R. placito 12. Croo. 1. last published. 308. 11.

Charge of
Robbery.

Averment.

Case 233.

Action for these words, You have sought to murder me, and I can prove it, adjudged that it lay. Croo. 308. 1. last published. 12.

Charge of an
endeavour to
Murder.

Case 234.

Action for words, That he being a Counsellor at Law, and Steward to I. S. of his Mannours, the Defendant said of him, Hee is a paultry Lawyer, and hath as much Law as a Jack-a-napes; upon not guilty pleaded, it

Slander of a
Lawyer.

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was

was found against him, and damages twenty pound. And it was moved, and the Action lyeth not; for it is not said, hee had no more Law than a Jack-a-napes, but it was adjudged for the Plaintiff, for the words are scandalous, and touch him in his profession. Croo. 1. last publishr. 342. 9.

Case 235.

Charge of Perjury.

Action for these words, Thou art a forsworn Jack in the Court-Baron of D. thou hast sworn me out of twenty shillings rent, and hast me on thy side; adjudged that the Action lay, and the Plaintiff recovered. Croo. 1. last publishr. 342. 10.

Case 236.

Charge of Theft.
Cur purse.

Action for these words, There was never a Purse cut within twenty miles of Vellingborough, but thou hadst thy part in it; and avers, that such a Purse was cut, &c. and he had no part in it. And it was moved, that an Action lyeth not; for it is not said, he had a part of it as a partaker in the felony, for he may have a part in it in the losse, and so it is no slander; but it was adjudged for the Plaintiff, for the words shall be taken to be spoken in the worst sense, in disgrace and reproach of the Plaintiff. Nota, Serjeant Yelverton cited a Case, Palche. 32 Eliz. Sir Edward Hastings brought an Action for these words, You have procured a perjured man to seek my blood; and ruled, that an Action did not ly. But Fennor said the Case was not adjudged, but ended by his Arbitrement. Vide Mich. 35. & 36. Eliz. Antea B. R. placit. 11. Croo. 1. last publishr. 342. 11.

Case 237.

Charge of Perjury.

Action for words, for that the Defendant said to I. B. Son of the Plaintiff, in the presence of others, Thou (præfat. J. B. Innuendo) and thy Father (Innuendo the Plaintiff) were both Perjured, and I (Innuendo the Defendant) will prove you both perjured. Upon not guilty, it was found for the Plaintiff damages twenty pound. And it was moved in arrest of judgement, that it was not averred that I. B. was the Son of the Plaintiff; but it was held well enough, for that it was alledged, that the words were spoken to I. B. his Son, and it was adjudged for the Plaintiff. Croo. 1. last publishr. 143. 11.

Averment.

Case 238.

Charge of Felony.
Indirectly.

Action for these words, Many an honest man hath been hanged, and a Robbery hath been committed, and I think he was at it, and I think he is a Horse-stealer; it was moved after verdict, that an Action lyeth not without an expresse averment he was so; Curia contra, they are a great slander, if the Defendant sheweth not a good cause of his thinking; and it was adjudged for the Plaintiff. Croo. 1. last publishr. 148. 10.

Averment.

Case 239.

Charge of Perjury.

Action upon the Case was brought for these words, Thou art forsworn, and I will make thee flowre the Pillory, or else it shall cost me a hundred pound, Et per totam curiam, an Action lyeth not; for Anderson said, There is a great difference betwixt the words forsworn, and perjured; for forsworn is, where he swears against the truth in ordinary discourse, but Perjurum est quando jus alterius pervertitur, which is to bee intended in judicial proceeding; and this difference hath been allowed of, quod curia concessit; but to say, hee was forsworn in such a Court, or betwixt such Parties, an Action lieth; whersoepe it was adjudged for the Defendant. Croo. 1. part last publishr. 394. 20.

Case 240.

Charge of poisoning husband by Report.

Action for these words, One told me that he heard one say, that Mistris Meggs had poisoned her Husband, Ubi re vera nullus dixit, &c. and upon not

not guilty pleaded, it was found for the Plaintiff; and now alledged in Arrest of Judgement, that an Action lies not for these words, for it is but a report of an hear-say, which cannot be any discredit; but notwithstanding it was adjudged for the Plaintiff; for it is a great defamation; and is a cause of drawing her name and life in examination, wherefore, &c. Croo. 1. part last publisht. 400. 7.

Case 241.

Action for these words, Thy Father (Innuendo, the Plaintiff) hath stoln six sheep. The Defendant justifies, and issue taken thereupon, and found for the Plaintiff, and it was alledged in arrest of Judgement, that the Declaration was not certain nor sufficient to shew, that he spake those words of the Plaintiff; for it is not averred that he spake them to the Plaintiffs Son, nor that the Plaintiffs Son was there present; and then it cannot be intended of the Plaintiff, and the Innuendo will not help this uncertainty. And although the Defendant hath admitted it by his Plea, yet that never shall help a Declaration which is defective in substance: but if it were defective in form only, as by leaving out the place where a thing was done, or by pleading a collateral plea, that may be made good, as 18. Ed. 4. 16. and 6. Ed. 4. 2. And of that opinion were all the Justices (besides Gawdy) that the Declaration was not good; for it cannot be intended to be spoken of the Plaintiff, more than of any other person, unless it had been averred, that his Son was there present: And although the Defendant by his plea confesseth, that he intended them of the Plaintiff, yet that shall not help the Declaration, which is insufficient. But Gawdy e contra, because it shall be intended that the Plaintiffs Son was there, for otherwise he could not have said, thy Father. But notwithstanding it was adjudged for the Defendant. Croo. 1. last publisht. 416. 11.

Charge of theft

Averment.

Pleading.

Innuendo.

Declaration.

Case 242.

Action upon the Case, whereas he was seized of the Manor of Upton Grey, that the Defendant, to slander his title, spake these words, Mr. Marvin (Innuendo, the plaintiff) hath not any title to Upton (Innuendo Upton Grey) upon not guilty pleaded, it was found for the plaintiff, and now moved in Arrest of Judgement. First, Because he doth not shew what estate he had therein; for it may be that he hath it but per antea vic, and then Cestuy que vic being dead, he hath not any title, he ought also to recover his damages to his estate, &c. Secondly, The words are not spoken of Upton Grey, but of Upton only; which cannot be intended of Upton Grey, and it cannot be helped by the Innuendo. But all the Court resolved, that the Declaration was well enough; for as to the first, he needed not shew what estate, &c. for his seizing of any estate is sufficient: And therefore Fenner said in the case of Huddleston against the Lord Dacres in a Writ of Annuity; The Defendant pleaded, that he granted it unto him to be his Steward, and that he was seized of the Manor of D. and requested him to keep his Court there, and he refused, &c. And exception was there taken, because he shews not of what estate he was seized, and ruled well enough; for peradventure it might be perilous to discover his estate. And to the second, they held, that the Innuendo did sufficiently serve to shew his intent, what he meant in naming Upton: for it is usually known without the addition, and might be called so: wherefore the Innuendo stands well with his speaking. But if without the Innuendo it could not by any intendment be taken so, it might have been otherwise, wherefore it was adjudged for the Plaintiff. Croo. 1. part last publisht. 419. 14.

Slander of a Title.

Innuendo.

Innuendo.

Case 243.

Action for these words, J. Halland (the Plaintiff) will come home again.

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gain,

Hee hath deserved hang-

gain, it hee escape the Gallows, for hee hath deserved to be hanged; after Verdict it was moved, that an Action lay not for those words. And so it was ruled accordingly: for they are too general. Because the Country people might intend, that hee deserved hanging, although hee never committed any Felony; wherefore it was adjudged for the Defendant. Croo. 1. part last publisht. 470. 30.

Case 244.

Bankrupt.

Action for words, and declares, whereas hee was a Merchant, That the Defendant to discredit him, said to one Dudley, Doth Vauspike (the Plaintiff) owe you any money? to whom hee said, that hee did, hee then said to Dudley, You had best call for it, take heed how you trust him; And it was thereupon demurred, and adjudged for the Defendant: For it is not any slander to the Plaintiff, but good Counsel to Dudley. Croo. 1. part last publisht. 541. 5.

Case 245.

Charge of Poisoning.

Indirect.

Averment.

Action for these words, I will call him in question for poisoning my Aunt, and I make no doubt to prove it; after Verdict for the Plaintiff, it was moved in Arrest of Judgement, that the words were not actionable; for it is not any direct affirmation, that hee poisoned his Aunt, sed non allocatur; for it cannot be more direct, when hee saith, hee will call him in question, and maketh no doubt to prove it. Secondly, It was alledged, that the Action lyeth not, because it is not averred, that his Aunt was poisoned, for otherwise it is not any offence, sed non allocatur, for his credit is not impeached, although hee never did any such fact: as to say, that hee was persured in this Court, although hee never were sworn, is actionable; wherefore it was adjudged for the Plaintiff. Croo. 1. part last publisht. 569. 3.

Case 246.

Charge of Forgery.

Action of the Case was brought for these words, Thou hast forged an Obligation, and I will prove it; the Defendant justifies, because hee had forged such an Obligation in the name of Wendy, the issue de son tort demeln, &c. and found for the Plaintiff; and now moved, that an Action lay not for these words; for hee doth not shew that this Obligation was sealed, and delivered, but the Court held it to be well enough, for it cannot be otherwise intended, for without those circumstances it is not an Obligation, but a Writing only. But they held, that for saying, Thou hast made a false Bond, an Action lyeth not, for that may be upon false instructions. Secondly, It was alledged, that this issue was not good; for there being a special forgery alledged, it ought to be specially traversed. But the Court held the issue to be well enough. And if it were not good, it is aided by the Statute, 32. H. 8. Wherefore it was adjudged for the Plaintiff. Croo. 1. part last publisht. 607. 7.

Case 247.

Charge of Robbery.

Action for these words, which the Defendant spoke to one Gurney, Bring mee to the Constables house, for I am robbed this night; and bring mee to Bonaventure Theobalds house, to arrest him, for old Theobalds (Innuendo, the Plaintiff) setteth his Sons to rob mee (Innuendo dictum Bonaventure, & quendam Johannem, filium ipsius Anthonii) from time to time. The Defendant pleaded not guilty, and found against him. And after Verdict, it was moved in arrest of Judgement, that the words were not actionable, because it is not alledged, that any of Anthony's Sons robbed him, and it is but an intent of setting to rob, and no Action done, the words also are insensible. But notwithstanding it was held by the Court, that the words were very slanderous, and that the Action was maintainable; And

And so it had been adjudged in this Court, that one such lay in wait to murder mee, &c. Wherefore it was adjudged for the plaintiff. Note, *Endeavour to do it.* *Innuendo.* *Croo. 1. last pub.*
 rour was hereof brought, because it is not precisely affirmed of the plaintiff. But it is said old Theobalds, and hee doth not name the plaintiff, and an Innuendo will not serve, whereupon it was reversed. *Croo. 1. last pub.*
 618 3.

Case 248.

Action for words, whereas the Plaintiff was, and is a Physitian, that the Defendant, intending to defame him and to prejudice him in his Art, false et malitiose, spake of him these words, Mr. Poe (innuendo the Plaintiff) hath killed Mr. Pasfield of the old Jury with Physick, (quidam Johannem Pasfield, late inhabiting within the old Jury, and now deceased; innuendo) which Physick was a Pill, and the Vomit was found in his mouth, and D. Ackins, and D. Paddy (quosdam Henricum Atkins & Johannem Paddy Doctors in Physick, (Innuendo) were there, and found it so, and it is true, ubi re vera, neither the said Doctor Atkins nor Doctor Paddy nor any other ever found any such thing to be committed by him, et ubi re vera he never Administred any Physick unto him in Pills, or otherwise, &c. The Defendant pleaded a concord in Barr, which plea was ill pleaded, (as it was agreed on both sides) whereupon the Plaintiff demanded. And now Cook Attorney generall moved, that an Action lay not for these words, for it is not any slander to a Physitian, to say of him that he had killed one with physick, for he might do it involuntarily in not knowing the disease, and no discredit unto him, Popham and Penner held, that the Action lay not, for it cannot be any discredit to a Physitian, to say that he killed one with physick, for it is an usual and common expression, and it may be without any fault in him; for they may mistake the diseases in their own bodies, much more in others; and apply wrong medicines, which may be the cause of the Patients death, and yet no discredit unto them. But if it had been, that he scienter et voluntarie ministred Physick to one to kill him, that toucheth him in his profession, and the words had been Actionable, but not here. And although it bee said, that he never administred any physick unto him, that is not material, wherefore they, without any argument on the plaintiffs side, (Clinch repugnare et Gaudy absente) adjudged it for the Defendant. *Croo. 1 last publishr. 620. 9.*

Slander of a
Physitian.

Case 249.

Action upon the Case, for that he spake quidam scandalosa verba of the Plaintiff, tenor quorum sequitur in hac verba, thou art a Godsening Knave, and a Bankrupt, vel his similia, the Defendant pleaded not guilty, and found for the plaintiff, and judgement uttered for him without priority of the Court, and the Court being now moved therein, held that an Action lies not. And Walmsley said, it was by reason of the word consimilia as it was adjudged in Garters Case; it is not good also, for that it is said, that hee spake divers words, tenor quorum sequitur, wherefore it was commanded, that the Roll should be amended *Croo. 1 part last publishr. 657. 32.*

Bankrupt.

Godsening
Knave.

Case 250.

Action for words, viz. The Plaintiff was one of them, that brake Mr. Philips house, and did take and carry away part of the money that was stolen. Walmsley held, that an Action lay not for these words, for where words are ambiguous, so as they may bee expounded in good or ill part, no Action then lies, for they shall be expounded in the best sense, and it may bee here intended, that he brake the house upon just cause, and brought the money to another place upon just cause. Wherefore, &c. And so was the opinion of the other Justices *Croo. 1. part last publishr. 672. 38.*

Charge of
Burglary.

Incertainty
in the words.

Case 251.

Leprous Knave. In Croo. 2. 144. This Action was adjudged to lye upon a Demurrer, for this, Thou art a Leprous Knave. Taylor and Perkins. Hill. 4 Jac. B. R. See Croo. 2. 430.

Case 252.

Pillory Knave. Action for these words, Thou art a Pillory Knave, remember, Brown, thou shouldst have been set on the Pillory; and the Plaintiff had judgement, though it was not said, he was set on the Pillory. Brown and Dawks. Mich. 24. 25 Eliz. Co. B. Croo. 1. last publishr. 11. And yet in Trin. 26 Eliz. B. R. in Smiths Case, the Court was of opinion, that for these words, Thou art a Knave, and a Pillory Knave, no Action lyeth. Croo. 1. part last publishr. 31. And in Pasche. 26 Eliz. Co. B. an Action was adjudged to lye for this. Where is that bankrupt Knave, where is that Pillory Knave, with an averment, that he was a Merchant of whom the words were spoken. Griffith and Morrisons Case, Croo. 1. last publishr. 26.

Averment.

Case 253.

Charge of couzening. Action for this, Thou wert a Suitor to a Woman in Southwark, and didst couzen her of her goods, and procured certaine false Witnesles to be forged. And after verdict the judgement was stayed, for that the words are not actionable. Engurst and Brown. Trin. 30 Eliz. B. R. Croo. 1. last publishr. 99.

Forgery.

Case 254.

Charge of Jugling, and of Forgery. Action for these words, Thou hast used Jugling with me, but thy Jugling shall not serve thy turn, and thou hast forged a VVrit of Quare Impedit, Intendo, a Writ of Quare impedit against him, and the Bishop of Coventry; and the Plaintiff had judgement, for the last words, not the first, were agreed to be actionable. Sale and Marth. Pasche. 32. Eliz. B. R. Croo. 1. part last publishr. 178.

Case 255.

Charge of theft indirect. Action for these words, Shce is as very a Thief as any that robbeth by the High-way side; upon not guilty, the Jury found these words, Shce is a worse thief than any that robbeth by the High-way side. And the Court held in both Cases, the words are actionable. But Gawdy and Fenner held, that the words do not agree with the Declaration, for the Jury doe not finde, that the Defendant at the time mentioned in the Declaration, spake the words in the verdict, so that it may be he spoke them at several times, and it differs from Bridges Case, Dyer, 3. Mar. where the Jury found he spake part of, but not all the words, for there they did acquite him of the robbery, and the words are not of one sense. VVray contra, as very a thief, and a worse thief, are all one; the Lady Racliff and Shubley. Pasche. 33 Eliz. B. R. Croo. 1. last publishr. 224. See before Case 168.

Verdict.

Case 256.

Charge of theft by implication or indirect. Action for these words, I have served thee with the Queens Letter, for stealing of goods out of my Mothers house. Upon not guilty, and verdict for the Plaintiff, it was adjudged, that the Action did not lye for the words, for he saith not expressly, that he had stolen the goods, but that hee served him, &c. which may be thought he did not steal them, so it is only a charge by implication. Periam cited a Case of one Nowel a Clerk of this Court where the words were, Thou wast Cubbed up for forging of Writs, and titles in Action for. Atkinson and Atkinson. Pasche. 33 Eliz. in Scaccarie. Croo. 1. part last publishr. 4.

He was Cubbed for forging Writs.
Cousinry.

Case 257.

Charge of theft. Action for these words, Thou hast playd the Thief with me, and hast stolen my Cloath, and half a yard of Velvet. The Defendant pleaded that

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the Plaintiff was his Taylor, and that upon the day of, &c. hee delivered to him a yard and a half of Velvet to make him a pair of Palse, and hee made them two streight, Ratione cuius, he spake these words, Thou hast stoln part of the Velvet which I delivered thee, Absque hoc, that he spake any words aliter, vel alio modo, upon which the Plaintiff demurred. For the Plea and Traverse do not confesse any words of slander, and then the Traverse is merely void. L. 5. Ed. 4. 26. 9. Ed. 4. 15. 37. H. 6. 34. 22. H. 6. 17. And of this opinion was the Court, but a manifest fault was alledged in the Plea, for hee did not answer to the words, Thou hast stoln my Cloth; and it was adjudged for the Plaintiff. Johns and Girtins, Trin. 33. Eliz. B. R. Croo. 1. part last publisht. 239.

Cale 258.

Action for these words, Thou art a forger, and art sued in the Starre-Chamber, for forging, by one Sedge. And after Verdict for the Plaintiff, and motion for arrest of the Judgement, it was adjudged for the Plaintiff, albeit hee did not say, what thing hee forged; and how hee was sued, for it might be without cause. For when hee saith, Thou art a forger, it is intended of such a thing, as whereof Forgery may be, and to be spoken in the worst part; and when hee saith, Hee is sued, &c. this doth aggravate it, that hee did such a Forgery, as for which hee is suable there. Munday and Cordall. Pasche. 35. Eliz. B. R. Croo. 1. part last publisht. 296.

Cale 259.

Action for this, Hee was falsly forsworn in the Court of the Bishop of Exon, at Exon. It was moved in arrest of Judgement, it doth not appear, hee was sworn in any Iudicial Court, for it may be in the Bishops parish, called his Court; yet the Plaintiff had Judgement. Lee and Secombe. Pasche. 35. Eliz. B. R. Croo. 1. part last publisht. 297. See before, Cale 35. 59. And after Cases. 266. 267. 273. 274. 276. 284. 286. 294. 315. 329. 337. 348.

Cale 260.

Action for this, My Master hath put mee away, because I would not be a Papist, for hee will keep no Servants but Papists; and alledged, that hee was a Justice of Peace. Upon Demurrer, the Court held, that the Action did not lye for these words. Perepoints Cale. Mich. 35. & 36. Eliz. B. R. Croo. 1. part last publisht. 308.

Cale 261.

An Action was brought by an Alderman, and a Merchant in York; for these words, Hee is a false Knave, and keepeth a false Debt-book, for he chargeth mee with the Receipt of a peece of Velver, which is false. After a Verdict for the Plaintiff, upon not guilty pleaded, and a motion to arrest the Judgement, it was adjudged, that the Action lyes not for the words. And against the Plaintiff. Brook and Watson. Trin. 37. Eliz. B. R. Croo. 1. part last publisht. 403. See afore Cale 142. 143. 198. 326. 327. 329.

Cale 262.

Error of a Judgement in an Action, for these words, Thou art a pilg-Prigging pil-
ging, pilfring Merchant, and hast pilfrd away my goods from my Wife fring Merchant.
and Children, that the words were not actionable. And the Judgement was reversed for this cause. Charter and Hunter. Mich. 37. & 38. Eliz. B. R. Croo. 1. part last publisht. 424. And in the Case of Bradshaw and Wal-
ker for this, Thou art a filching Fellow, and didst filch from William Par-
son a hundred pound; the words were held by the Court Co. B. not action-
able, and it was adjudged against the Plaintiff. Hobb. Rep. pl. 322.

Action was for this, Thou art a Thief, for thou hast stoln half an Acre of Corn [Innuendo, the Corn growing upon half an Acre of ground, reaped, of such

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and put into stocks by the Defendant; the Defendant demurred to the Declaration. And it was held, the words were not actionable, and it was adjudged for him against the Plaintiff. *Cattleman and Hobbs. Mich. 37. and 38. Eliz. B. R. Croo. 1. part last publisht. 428. See after. 304. 305. 333. 341. 346.*

Case 263.

Justice of Peace
Slandered.
Blood-sucker.

Action for this, was brought by a Justice of Peace, Hee is a Blood-sucker, and seeketh others blood. Upon not guilty pleaded, and a Verdict for the Plaintiff, it was moved in arrest of Judgement, and adjudged for the Defendant against the Plaintiff, and that the words were not actionable. *Sir Christopher Hylliard, and Constable. Croo. 1. part last publisht. 306. 433.*

Case 264.

Charge of concealment of a
Theft, and the
Theft.

Action for these words, spoken of one that was robbed of peeces of Cloth, Hee hath received three peeces of his Cloth again of the Thief, and beareth with the Thief: And if I have any hurt hereafter, I will charge him with it. After Verdict for the Plaintiff, it was adjudged for the Defendant against the Plaintiff, that the words are not actionable. *Hall and Henckly. Mich. 38. & 39. Eliz. B. R. Croo. 1. part last publisht. 486. 487. See before Case 88. 106. 107. 191.*

Case 165.

Charge of
Sealing of
Wood.

Action for this, Thou hast feloniously taken my wood, and a verdict for the plaintiff, and motion to arrest Judgement, for that the words were not actionable, it was resolved the words were actionable, and adjudged for the plaintiff. *Croo. 1. part last publisht. 471. See before. Case 114. And after. 304. 305. 333. 346.*

Case 266.

Charge of Per-
jury.

Action for these words, Thou wast forsworn in the Leet [Innuendo, a Let holden in such a manner, such a day, &c. And all the Justices held that the words were actionable. *Mich. 38. and 39. Eliz. B. R. Wild and Cookman. Croo. 1. part last publisht. 492. See before Case 59. 35. 54. And after. 277.*

Case 267.

Charge of Per-
jury.

Action for this, Thou hast taken a false Oath in the Consistory Court of Exeter. And it was demurred whether actionable; and it was held actionable, and adjudged for the plaintiff. *Christian Plaice, and William How. Trin. 32. Eliz. B. R. Croo. 1. part last publisht. 185. And yet Croo. 2. 436. Page and Keble. Mich. 15. Jac. B. R. Action was for this, Thou art perjured, for thou art forsworn in the Bishop of Gloucester his Court. After verdict, it was moved that the words are not actionable; and of that opinion was the Court, and gave Rule for Judgement accordingly.*

Case 268.

Charge of theft
of Hop-poles.

Action for this, Thou hast stolen a load of Hop-poles. And it was ruled, the words were actionable. *Guydeslew and Ward. Paiche. 33. Eliz. B. R. Croo. 1. part last publisht. 225.*

Case 269.

Charge of
Treason.
Words general
and incertain.

Action for this, I am put out of the Parsonage-house, by Fowler the Parson, who is neither the Queens friend, nor a true Subject; it was adjudged that the words were not actionable; and said to be adjudged not to lye for this, Hee is not the Queens friend. *Fowler and Aston. Hill. 34. Eliz. B. R. Croo. 1. part last publisht. 268.*

Case 270.

Bankrupt.
Declaration.
By way of in-
terrogation.

Action for this, What art thou? a Bankrupt, and wast a Bankrupt. And the Declaration was, quod cum fuit Mercator per magnum tempus,
Sec.

Sec. and saith not; hee was a Merchant at the same time of speaking of the words. The Court held the Declaration good. And that his answer was a direct affirmation, but they would advise, &c. Jordan and Lyster. Pasche. 34. Eliz. B. R. Croo. 1. part last publishr. 273. See Croo. 1. 205. Collys and Malin, where the Plaintiff said, that hee had used the Trade of buying and selling of Cattell per magnum tempus, but did not say, hee used it at the time of the words spoken, it was adjudged against the Plaintiff. See also the like Case, Croo. 1. 231. Leycroft and Dunker.

Case 271.

Action for this, brought by a Shoemaker, and one that used buying and selling of Leather, Hee was a Bankrupt. And it was adjudged it did lye, albeit he were no Merchant, but hee got his living by buying and selling. Stanley and Osbalton. Hill. 34. Eliz. B. R. Croo. 1. part last publishr. 268. See the like for a Dyer, Croo. 2. 585. Squire and Jones. Mich. 18. Jac. B. R. See for this before, Case 181. 184. 190. 199. 205. And after. 244. 268.

Bankrupt.

Case 272.

Action was brought for this, by the Lord Mordant, My Lord Mordant did know that Prude robbed Shotbolt, and bid mee compound with Shotbolt for the same, and said, hee would see mee satisfied for the same, though it cost him a hundred pound, which I did for him being my Master, otherwise the evidence I could have given would have hanged Prude. It was adjudged for the Plaintiff, and a Writ of Error brought in the Exchequer Chamber, and Error assigned in the point adjudged, Croo. 1. part last publishr. 67.

Scandalum Magnatum.

Case 273.

Action for this, said to one newly sworn as a witness in a Court, as hee is coming out of the Court, Thou hast forsworn thy self. And it was adjudged actionable. Nedham and Correllis. Hill. 35. Eliz. B. R. Croo. 1. part last publishr. 293. See Croo. 1. 209. Drake and Cordery.

Charge of Perjury.

Case 274.

Action for this, Hee is a suborner of Perjury. After Verdict and Motion to arrest the Judgement, it was adjudged for the Plaintiff. Guerdon and Winterflud. 35. Sc 36. Eliz. B. R. Croo. 1. part last publishr. 308. See here. Case 298. 315.

Charge of subornation of Perjury.

Case 275.

One spake of the Bishops Register of Gloucester these words, amongst other actionable words, Inimicus meus, Innuendo, the Plaintiff is an extortioner. But said it to be spoken in another language, and did not aver, that it was spoken in the presence of any that understood the language. And it was the opinion of the Court, it was naught; and so said to be adjudged before, that without this Averment it will not lye. And Inimicus meus was uncertain, unless it had been averred, that hee was then the Plaintiffs enemy, and hee had no other enemy: or that there was speech about the Plaintiff in particular; and there said to be adjudged. That where three were sworn in an evidence against a man, and hee said to them, One of you is perjured, that the Action lay not, and an Innuendo cannot make it certain. Jones and Davers. Mich. 38. 39. Eliz. B. R. Croo. 1. part last publishr. 446. For Extortoin, see chap. 20. before. For another language, See after. 284. And for the uncertainty of the person slandered. See Case 199. 137. 197. 224. After Case. 309. 317. 320. 335. 336. 341.

Slander of an Officer.
Charge of Extortion.
In another language.
Averment.
Uncertainty of the person.

Case 276.

Action for this, was in Communi Bined, Brown Innuendo, the Plaintiff hath delivered untruths upon his Oath, in his answer to the Bill of S. in the Chancery, and had judgement; and brought his Writ of Error,

Charge of Perjury.

Errour, and assigned Errour that the words were not actionable. And the Judgement was hereupon resolved. Brown and Michael. Mich. 38. 39. Eliz. B. R. Croo. 1. part last publisht. 500. See after Case 287.

Case 277.

Charge of
Incertainity.

Spiritual Slander.

Action for this brought by a Preacher, the Parson of D. Parrat [the Plaintiff Innuendo] is an Adulterer, and hath had two Children by the Wife of I. S. and I will cause him to be deprived for it. And it was held by the Court to be a slander examinable in the Spiritual Court, and therefore adjudged against the Plaintiff. Parrat and Carpenter. Mich. 38. & 39 Eliz. B. R. Croo. 1. last publisht. 502. See Croo. 2. 625. See before Case 14. 20. 42. 76. and after Case 288. 293. 324.

Case 278.

Justice of Peace
slandered.

Action by a Justice of Peace for this. One Webb being Arrested as accessory of Felony for stealing of his owne goods, Mr. Stafford [Innuendo the Plaintiff] knowing thereof discharged the said Webb, by an agreement of three pound, whereunto Mr. Stafford was privie, whereof thirty shillings was to be paid to Mr. Stafford, and was paid to his man by his appointment, and the Plaintiff had judgement; and Errour was brought and assigned that the words were not actionable, but the judgement was affirmed. Croo. 1. last publisht. 536. See after Case 334.

Case 279.

Witch and
Sorcerer.

Action for this, Thou art a Witch and a Sorcerer, and it was adjudged for the Plaintiff to be actionable. John Rogers and Gravar. Trin. 39 Eliz. B. R. Croo. 1. part last publisht. 571. See before Case 145. 229. and after Case 319. 323. 337.

Case 280.

Slander of an
Attorney.

Action for this by an Attorney. I. S. Martin your Attorney, he is the foolishhest and simplest Attorney towards the Law, and if he does not overthrow your Cause I will give you my ears; Hee is a Fool, and an Ass. It was held these words, He will overthrow your Cause, were actionable, and it was adjudged for the Plaintiff upon all the words. Croo. 1. part last publisht. 589.

Case 281.

An Action was for this, I arrest you for Felony; and the Court seemed to incline to the opinion, that the words were not actionable. Hobb. Rep. pl. 286.

Case 282.

Corn-stealer.

Action for this, Thou art a Corn-stealer; and it was adjudged for the Plaintiff that the words are actionable. 39 Eliz. Co. B. Croo. 1. part last publisht. 563.

Case 283.

Charge of
Murder indirectly.
Averment.

Action for this, I will call him in question for poisoning my Aunt, and I make no doubt to prove it. After verdict and motion to arrest the Judgement, because the words were not a direct Affirmation, and because he did not aver that his Aunt was dead, it was held that the words were actionable without any such averment, and adjudged for the Plaintiff. So for saying, He was perjured in this Court, although he were never sworn. Webb and Poor. Trin. 39 Eliz. B. R. Croo. 1. last publisht. 569. See Case 217. before, and 245. 299.

Case 284.

Charge of Perjury.

Errour of a Judgement in the Common Banke for these words, Thou art a forsworn Fellow, for by thy false Oath thou hast hanged as true a man as thy self; and the errour assigned was because the words were not actionable;

ble; it was adjudged that the words were actionable, and the Judgement was affirmed.

Exception also was taken to the Declaration, for that it was, *Quod* Declaration, *propalavit quædam scandalosa verba*, prout in his Anglicanis verbis sequend. viz. Thou, &c. for that it may be they were spoken in another Language, &c. In another Language. sed nec allocatur, for it shall be intended they were spoken in English. *Rane* and Rookwood, Trin. 39 Eliz. B. R. Croo. 1. last publisht. 572.

Case 285.

An Action was for this, Thou hast harboured and received thy Son, knowing him before to be a Seminary Priest; the words were held actionable, and the Plaintiff had judgement. Pasche, 10 Jac. B. R. Smith and Plinr, Croo. 2. 300. Harboring a Priest.

Case 286.

Action for this, spoken of an Attorney, Thou art a Couzening Knave, and Slander of an gettest thy living by Extortion, and didst couzen one Pigeon in a Bill of Costs Anorney. of ten pound, It was held by the Court, that for the first words, Thou art a Couzening Knave, it lyes not, nor for the next, thou gettest thy living by Extortion, no more than for saying, thou gettest thy living by swearing and forswearing, &c. As in the Case of Stanhop. but for the last words that the Action did lye; and it was adjudged for the Plaintiff, Stanley and Boswell. Hill. 40 Eliz. Co. B. Croo. 1. last publisht. 602. And in Croo. 2. 586. Jenkins and Smith. Mich. 18 Jac. B. R. It is adjudged to lye for this, said of him, Thou art a false Knave, and a couzening Knave, and hast gotten all that thou hast by couzenage, and thou hast couzened all those that have dealt with thee. Charge of couzening.

Case 287.

Action for this, The Plaintiff was Perjured in his Answer in the Starre-Chamber [Innuendo a Bill there exhibited by the Plaintiff against the Defendant] It was held the words of themselves were actionable, and that the Innuendo being repugnant, is hord; and it was adjudged for the Plaintiff. Corber and Hill. Pasche, 40. Eliz. B. R. Croo. 1. last publisht. 609, and in the Case of Poultney and Wilkinson, Mich. 45 Eliz. B. R. an Action was brought for this, Thou art thrice Perjured in thy Answer in Chancery to my Bill [Innuendo a Bill by the Plaintiff there against the Defendant, and an Answer to that Bill.] It was upon a Demurrer adjudged for the Plaintiff without argument. Croo. 1. last publisht. 907. See the like in Croo. 1. 132. Sir Richard Snowds Case, See before Case 276. Charge of Perjury. Innuendo.

Case 288.

In Norwoods Case, Trin. 41 Eliz. B. R. It was held, that for saying, One hath begotten a Bastard on such a Woman, is not actionable at Common Law. Croo. 2. last publisht. 684, See Case 277. before. Incontinency. Spiritual Slander.

Case 289.

Error of a Judgement in an Action of the Case, for words of Walter Bridges, Hee is a maintainer of Theeves, and keppeth none but Theeves in his house, and I will prove it, &c. For that it was said the words were not actionable, because he doth not aver, that he knew them to be theeves; and the judgement was reversed, Ball and Bridges. Hill. 43 Eliz. B. R. Croo. 1. last publisht. 746. See before Case 264. 159. 164. 171. 201. and after Case 345. Charge of maintaining Theeves.

Case 290.

Error of a Judgement for an Action for these words, *Mistris Margaret Passy* [Innuendo the Plaintiff] sent a Letter to my Master, and therein willed him to poyson his Wife; for that the words are not actionable. But the Judgement was affirmed, and held that the words were actionable. Charge of an endeavour to poyson.

able. Croo. 1. part last publishr. 747. See before Case 107. 148. 160. And after Case. 335.

Case 291.

Slander of an
Officer.

Action for this, by a Gaol, for this said of him, Heath hath let forth prisoners out of the Gaol, and had his part and shares with them; and by that means he came to his goods; hee had nor a sheet to his bed, before hee let them out of the Gaol to steal them; and it was held that the words were not actionable, and adjudged for the Defendant. Heath and Polc. Mich. 42. Eliz. B. R. Croo. 1. part last publishr. 783.

Case 292.

Slander of a
Justice of Peace.

Action for this, Whereas hee was indicted, arraigned, and acquitted of such a felony, before the Justices of the Peace, of the County of Norfolk, that the Defendant said of him, If Mr. Hasler, and one A. [Justice of Peace, of the said County] had done Justice, Royal had been hanged for robbing me. It was adjudged for the Plaintiff. Royal and Peckham. Mich. 42. Eliz. Com. B. Croo. 1. part last publishr. 786. See here 278. and 334.

Case 293.

Charge of In-
continency.

Spiritual.

Loss of Prefer-
ment.

An Action was brought for this, Thy Mistress is an arrant Whore, and would have layn with mee seven years since, and I would not, unless shee would go to the hedge. And it was alledged, that shee was in a communication with J. S. of marriage, and thereby lost it; and upon not guilty pleaded, and a verdict, it was moved in arrest of the Judgement, for that the words were merely spiritual, and punishable in the spiritual Court. And that an Action lyeth not for calling of one Whore, or Heretick, by our Law. But they held, if the words had been spoken to him, who was in communication to have married her, so as it had appeared hee had done it purposely to hinder the marriage, as in Anne Davis Case, the Action is maintainable for the loss; and in this Case it was adjudged against the Plaintiff, Holwood and Hopkins. Mich. 42. Eliz. Co. B. Croo. 1. part last publishr. 787. See Case 277.

Case 294.

Charge of Per-
jury, of coun-
selling.

Action for this, Thou art forsworn in the Carpenters Hall, and didst rob the Hall, and deceive the Company of twenty pound. And hee set forth that the Company was a Corporation, and hee Master of the Company, and had the goods and money appertaining to it, and sworn to render an account. It was adjudged, that it lay not for the first, but it lay for the last words; and that when any of the words are actionable, the Plaintiff shall have Judgement. Thaxby and Smith. Mich. 42. Eliz. Co. B. Croo. 1. part last publishr. 787.

Case 295.

Bankrupt
Knave,
Vagabond
Rogue.

Action for this, Thou art a Bankrupt Knave, a Vagabond, and a Rogue. It was held by the Court clearly, that it lyeth not for Vagabond and Rogue, And of Bankrupt Knave, it is doubted. Robinson and Mellor. Trin. 43. Co. B. Croo. 1. part last publishr. 843. But afterward in the Case of Wolverston and Meres. Mich. 44. Eliz. B. R. It was adjudged to lye for saying of a Merchant, Hee is a Bankrupt Knave, and affirmed in a writ of Error. Croo. 1. part last publishr. 911. And in Croo. 2. 345. Selby and Carrier.

Action was for this, Hee is a Bankrupt Knave, and upon not guilty, a verdict, and motion to arrest the Judgement, because the words were not actionable; it was held, being two Substantives, they were actionable: otherwise, if it had been Bankruptly Knave, or Adjectively spoken. And Judgement was given for the Plaintiff. And yet see Croo. 2. 385. Squire and Johns. It is adjudged to lye, for saying of such a one, Hee is a Bankrupt Knave.

Action

Errour, and assigned Errour that the words were not actionable, And the Judgement was hereupon resolved. Brown and Michael. Mich. 38. 39. Eliz. B. R. Croo. 1. part last publisht. 500. See after Case. 287.

Case 277.

Charge of
Incontinency.

Spiritual Slander.

Action for this brought by a Preacher, the Parson of D. Parrat [the Plaintiff Innuendo] is an Adulterer, and hath had two Children by the Wife of I. S. and I will cause him to be deprived for it. And it was held by the Court to be a slander examinable in the Spiritual Court, and therefore adjudged against the Plaintiff. Parrat and Carpenter. Mich. 38. & 39. Eliz. B. R. Croo. 1. last publisht. 502. See Croo. 2. 625. See before Case 14. 26. 43. 76. and after Case 288. 293. 324.

Case 278.

Justice of Peace
slandred.

Action by a Justice of Peace for this. One Webb being Arrested as accessory of Felony for stealing of his owne goods, Mr. Stafford [Innuendo the Plaintiff] knowing thereof discharged the said Webb, by an agreement of three pound, whereunto Mr. Stafford was privie, whereof thirty shillings was to be paid to Mr. Stafford, and was paid to his man by his appointment, and the Plaintiff had judgement; and Errour was brought and assigned that the words were not actionable, but the judgement was affirmed. Croo. 1. last publisht. 536. See after Case 374.

Case 279.

Witch and
Sorcerer.

Action for this, Thou art a Witch and a Sorcerer, and it was adjudged for the Plaintiff to be actionable. John Rogers and Gravar. Trin. 39. Eliz. B. R. Croo. 1. part last publisht. 571. See before Case 145. 229. and after Case 319. 323. 337.

Case 280.

Slander of an
Attorney.

Action for this by an Attorney. I. S. Martin your Attorney, he is the foolishest and simplest Attorney towards the Law, and if he does not overthrow your Cause I will give you my ears; Hee is a Fool, and an Ass. It was held these words, He will overthrow your Cause, were actionable, and it was adjudged for the Plaintiff upon all the words. Croo. 1. part last publisht. 589.

Case 281.

An Action was for this, I arrest you for Felony; and the Court seemed to incline to the opinion, that the words were not actionable. Hobb. Rep. Pl. 286.

Case 282.

Corn-Dealer.

Action for this, Thou art a Corn-Dealer; and it was adjudged for the Plaintiff that the words are actionable. 39. Eliz. Co. B. Croo. 1. part last publisht. 583.

Case 283.

Charge of
Murder indirectly.
Averment.

Action for this, I will call him in question for poisoning my Aunt, and I make no doubt to prove it. After verdict and motion to arrest the Judgement, because the words were not a direct Affirmation, and because he did not aver that his Aunt was dead, it was held that the words were actionable without any such averment, and awarded for the Plaintiff. So for saying, He was poisoned in this Court, although he were never sworn. Webb and Poor. Trin. 39. Eliz. B. R. Croo. 1. last publisht. 569. See Case 217. before, and 245. 299.

Case 284.

Charge of Per-
jury.

Verdict of a Judgement in the Common Banke for these words, Thou art a forsworn Fellow, for by thy false Oath thou hast hanged as true a man as thy self; and the Errour assigned was because the words were not actionable; and

ble; it was adjudged that the words were actionable, and the Judgement was affirmed.

Exception also was taken to the Declaration, for that it was, *Quod Declaration*
propalavit quendam scandalosa verba, prout in his Anglicanis verbis fecerat, viz. Thou, &c. for that it may be they were spoken in another Language, &c. *In English Language.*
sed nec allocatur, for it shall be intended they were spoken in English, *and*
and Rookwood, Trin. 39 Eliz. B. R. Croo. 1. last publisht. 572.

Case 285.

An Action was for this, Thou hast harboured and received *Harboring a*
him before to be a Seminary Priest; the words were *Priest.*
the Plaintiff had judgement. Pasche. 10 Jac. B. R. Smith and Hine, Croo.
2. 300.

Case 286.

Action for this, spoken of an Attorney, Thou art a Couzening Knave, and Slander of an
gettest thy living by Extortion, and didst couzen one Pigeon in a Bill of Costs Attorney.
of ten pound, It was held by the Court, that for the first words, Thou art
a Couzening Knave, it lies not, nor for the next, thou gettest thy living by
Extortion, no more than for saying, thou gettest thy living by swearing and
forswearing, &c. As in the Case of Stanhop, but for the last words that the
Action did lie; and it was adjudged for the Plaintiff, Stanley and Boswell.
Hill. 40 Eliz. Co. B. Croo. 1. last publisht. 602. And in Croo. 2. 588. Jen-
kins and Smith. Mich. 18 Jac. B. R. It is adjudged to lie for this, said of
him, Thou art a false Knave, and a couzening Knave, and hast gotten all
that thou hast by couzenage, and thou hast couzened all those that have dealt
with thee.

Case 287.

Action for this, The Plaintiff was Perjured in his Answer in the Starre-Charge of Per-
Chamber [Innuendo a Bill there exhibited by the Plaintiff against the De- jury.
fendant] It was held the words of themselves were actionable, and that
the Innuendo being repugnant, is void; and it was adjudged for the plain- Innuendo.
tiff, Corber and Hill. Pasche. 40. Eliz. B. R. Croo. 1. last publisht. 609, and
in the Case of Poulteney and Wilkinson, Mich. 45 Eliz. B. R. an Action was
brought for this, Thou art thrice Perjured in thy Answer in Chancery to my
Bill [Innuendo a Bill by the Plaintiff there against the Defendant, and an
Answer to that Bill.] It was upon a Demurrer adjudged for the Plaintiff
without argument, Croo. 1. last publisht. 907. See the like in Croo. 1. 129.
Sir Richard Snowds Case, See before Case 276.

Case 288.

In Norwoods Case. Trin. 41 Eliz. B. R. It was held, that for saying, Incontinency.
One hath begotten a Bastard on such a Woman, is not actionable at Common Spiritual Slan-
Law, Croo. 1. last publisht. 684, See Case 277. before.

Case 289.

Error of a Judgement in an Action of the Case, for words of Walter Charge of
Bridges, Hee is a maintainer of Theeves, and keepeth none but Theeves in Charge of
his house, and I will prove it, &c. for that it was said the words were not
actionable, because he doth not aver, that he knew them to be Theeves; and
the judgement was reversed, Ball and Bridges. Hill. 43 Eliz. B. R. Croo.
1. last publisht. 746. See before Case 264. 159. 164. 175. 201. and af-
ter Case 345.

Case 290.

Error of a Judgement for an Action for these words, *Mistress Margaret*
Pally [Innuendo the Plaintiff] sent a Letter to my Master, and therein wil- Charge of at-
led him to poyson his Wife; for that the words are not actionable, But poyson.
the Judgement was affirmed, and held that the words were action-
able,

able. Croo. 1. part last publishr. 747. See before Case 102. 148. 160. And after Case. 335.

Case 291.

Slander of an Officer.

Action for this, by a Gaol for this said of him, Heath hath let forth prisoners out of the Gaol, and had his part and shares with them; and by that means he came to his goods; hee had nor a sheet to his bed, before hee let them out of the Gaol to steal them; and it was held that the words were not actionable, and adjudged for the Defendant. Heath and Polc. Mich. 42. Eliz. B. R. Croo. 1. part last publishr. 783.

Case 292.

Slander of a Justice of Peace.

Action for this, Whereas hee was indicted, arraigned, and acquitted of such a felony, before the Justices of the Peace, of the County of Norfolk, that the Defendant said of him, If Mr. Hasset, and one A. [Justice of Peace, of the said County] had done Justice, Royal had been hanged for robbing me. It was adjudged for the Plaintiff. Royal and Peckham. Mich. 42. Eliz. Com. B. Croo. 1. part last publishr. 786. See here 278. and 334.

Case 293.

Charge of Incontinency.

Spiritual.

Loss of Preferment.

An Action was brought for this, Thy Mistress is an arrant Whore, and would have layn with mee even years since, and I would not, unless shee would go to the hedge. And it was alledged, that shee was in a communication with J. S. of marriage, and thereby lost it; and upon not guilty pleaded, and a verdict, it was moved in arrest of the Judgement, for that the words were merely spiritual, and punishable in the spiritual Court. And that an Action lyeth not for calling of one Whore, or Heretick, by our Law. But they held, if the words had been spoken to him, who was in communication to have married her, so as it had appeared hee had done it purposely to hinder the marriage, as in Anne Davis Case, the Action is maintainable for the loss; and in this Case it was adjudged against the Plaintiff, Holwood and Hopkins. Mich. 42. Eliz. Co. B. Croo. 1. part last publishr. 787. See Case 277.

Case 294.

Charge of Perjury, of counselling.

Action for this, Thou art forsworn in the Carpenters Hall, and didst rob the Hall, and deceive the Company of twenty pound. And hee set forth that the Company was a Corporation, and hee Master of the Company, and had the goods and money appertaining to it, and sworn to render an account. It was adjudged, that it lay not for the first, but it lay for the last words; and that when any of the words are actionable, the Plaintiff shall have Judgement. Thaxby and Smith. Mich. 42. Eliz. Co. B. Croo. 1. part last publishr. 787.

Case 295.

Bankrupt Knave, Vagabond Rogue.

Action for this, Thou art a Bankrupt Knave, a Vagabond, and a Rogue. It was held by the Court clearly, that it lyeth not for Vagabond and Rogue. And of Bankrupt Knave, it is doubted. Robinson and Mellor. Trin. 43. Co. B. Croo. 1. part last publishr. 843. But afterward in the Case of Wolverham and Meres. Mich. 44. Eliz. B. R. It was adjudged to lye for saying of a Merchant, Hee is a Bankrupt Knave, and affirmed in a writ of Error. Croo. 1. part last publishr. 911. And in Croo. 2. 345. Selby and Carrier.

Action was for this, Hee is a Bankrupt Knave, and upon not guilty, a verdict, and motion to arrest the Judgement, because the words were not actionable; it was held, being two Substantives, they were actionable: otherwise if it had been Bankruptly Knave, or Adversely spoken. And Judgement was given for the Plaintiff. And yet see Croo. 2. 385. Squire and Johns. It is adjudged to lye, for saying of such a one, Hee is a Bankrupt Knave.

Action

Action for this, brought by one that was Sheriff of a County the last year, and that is Sheriff also this year, for words spoken to his servant, viz. Your Master must not look to have such hudling and thuffling up of matters this year, as he had the last year. It was adjudged, that the words were not actionable. Brown and Streete. Mich. 43. Eliz. B. R. Croo. 1. part last publisht. 848.

Case 296.

An Action was brought for words, and the Plaintiff declared after this manner, that the Defendants Wife spake of the Wife of the Plaintiff, *Quædam falsa & scandalosa verba, quorum tenor sequitur in hæc verba*, Thou art an arrant Whore, &c. And the whole Court held the Declaration ill. The words were, Thou art an arrant Whore, an old worm-eaten Jade, and one of thy sides hath been eaten out with the Pox. And the Court held them actionable. Croo. 1. part last publisht. 857. See before Case 249.

Case 297.

Action for this, said of an Attorney, Hee is a paultry fellow, his credit doth begin to crack, hee doth deal on both sides, in Com. B. And Judge. ment was given for the last words, Hee doth deal on both sides. And affirmed in a Writ of Errour, in B. R. Mich. 45. Eliz. B. R. Croo. 1. part last publisht. 914.

Case 298.

Action for this, Thou art a lewd Fellow, for thou hast drawn such a one to Perjury; upon a Writ of Errour after Judgement for the Plaintiff, it was held by all the Judges, that the words are actionable, as to say, Thou hast suborned a man to perjure himself, Clerk and Penkeven. Mich. 44. 45. Eliz. B. R. Croo. 1. part last publisht. 899.

Case 299.

An Action was for this, Hee was indicted for Felony at a Sessions held at And did not aver that hee was not indicted; and judgement was staied after a verdict for the Plaintiff, for lack of Averment. Also it was doubted, whether the words be actionable, or not, for an Indictment is but a surmise. Hobb. Rep. pl. 289. Blands Case. See here 283.

Case 300.

Action for this, Thou didst steal a Sack. The Defendant pleaded, that a Sack was stoln, and common fame was, that the Plaintiff had stoln it, and upon this hee informed against him to a Justice of Peace, but before the Justice he used these words to the Plaintiff, Thou didst steal &c, whereupon the Plaintiff demurred in Law. And it seems the Justification is not good. Scarlet and Stiles, Hobb. pl. 238. See Brownl. Rep. 1. 3.

Case 301.

A. sent a Letter closed, and sealed to Sir Baptiste Hicks; which was so delivered to his hands, containing many despitifull scandalous words delivered Ironice, as saying, you will not play the cheater; nor the Hypocrite, and in that sort taunting him, for an Alms-house, and certain good works that hee had done, all which hee charged him to do for vain glory, for which hee was punished in the Starre-Chamber. But it seems no Action will lye for this. Hobb. Rep. 276. Hicks Case.

Case 302.

Action for this, I charge him [Innuendo, the Plaintiff] with Felony, I charge him for taking mony out of the pocket of Henry Stacy. A verdict for the Plaintiff, yet Judgement was given against him, and the words held not actionable, for it is no direct charge, and the latter words make them ambiguous, and qualifie them. Hobb. Rep. pl. 381. Poland and Mason;

And yet see after Case 315. 339. that to say, I charge thee with Felony, is actionable. Croo. 2. 312.

Case 303.

In a course of Justice.

A prohibition was prayed by the Defendant, because hee being of Counsel with the Defendant, in an Action of the Case, for saying, the Plaintiff had murdered three children, whereunto the Defendant pleaded not guilty, and at the Trial, the Defendant, to extenuate damages of his Client, did urge and presse the fact, to make the matter more probable, so far as might tend to the defamation of the Plaintiff; and because it was in his profession, and pertinent to the good and safety of his Client, though it were not directly to the issue, a prohibition was granted. Hughes Case. Hobb. pl. 399.

Case 304.

Charge of stealing a Tree.
And.
For.

Action for this, Thou art a Theef, and hast stolln a Tree, upon not guilty, and verdict for the Plaintiff; yet it was adjudged against him. And yet a Judgement was cited in the Kings Bench. 7. Jac. given for the Plaintiff, for this, Thou art a Theef, and hast stolln Trees out of J. S. his Orchard, &c. Hobb. Rep. pl. 98. Adrian Coote. Co. B. See after Case. 333.

Case 305.

Charge of stealing Furre.

Action for this, Thou art a Theef, and hast stolln twenty load of my Furrs. Upon not guilty pleaded, and a verdict for the Plaintiff, and motion to arrest it, and divers Judgements cited in the Kings Bench. And for this, Thou art a Theef, and hast stolln my Corn; that Judgement was given for the Plaintiff, yet Judgement was given against the Plaintiff in this Case. Hobb. Rep. pl. 406. Clerk and Gilbert. Co. B. See after Cases 333.

Case 306.

Common Barretor.

Thornton a Carrier against Jobson for this, Hee is a common Barretor. The Court was of opinion, the words were not actionable; and yet for an Officer, Justice of Peace, Attorney, or the like, that they were actionable. Hobb. pl. 188.

Common Champertor.

Action for this, said of an Attorney, Thou art a common Maintainer of Suits, and a Champertor, and I will have thee thrown over the Bar the next Term; it was adjudged for the Plaintiff. Co. B. Bex and Barnaby Hobb. pl. 145.

Case 307.

To call one Theef after a general or special pardon.

In the Case of Cuddington and Wilkins, Co. B. It was held by the Court, that after a general, or special pardon of Felonies, a man cannot justify the calling of another Theef, that had committed a Felony before the pardon; and therefore that an Action will lye for this, especially in the Cases where the Slanderer doth, or may know of the pardon. But if a man commit a Felony, and get a secret pardon, that another man not knowing of it, may justify the apprehending of him for the Felony, even as a common voice and fame is a sufficient warrant to arrest for Felony, albeit the same be not true; for this is for the advancement of Justice, but so it is not to call him Theef, for that is neither necessary, nor tending to advance Justice, Hobb. pl. 71. and 106.

Case 308.

Charge of couzening.

Selling by false measures.

Action for this, that hee being Bailiff to A. for three years last past, of his Land in C. and had the selling of his Coyn and Grain, and that the Defendant said this unto him, Thou art a couzening Knave, and thou hast couzened mee in selling false measure in my Barley, and the Country is bound to curse thee for selling with false measures, and I will prove it, and thou hast changed my Barley. Upon not guilty, and verdict for

for the Plaintiff, it was notwithstanding adjudged against him, but held that if he had been a common Ridder, or Badger, and charged to sell by false measures, this had been actionable. And so perhaps, if I have a Bayliff, to whom I commit the buying and selling of my Corn, and I give him the greater wages in respect of the trust and employment, and one shall charge him to have deceived me in his office or trust, by buying & selling of false measure to my damage, this may be actionable. Hobb. Rep. Bray and Haines, pl. 93. And in Mich. 13 Car. 1. B. R. Seaman and Bigg, Action for this, whereas the Plaintiff was Servant in Husbandry to I. S. and his Bayliff in great trust with him, and thereby got his maintenance, that the Defendant to disgrace him said, Thou art a couzening Knave, and hast couzened thy Master of a Bushel of Barley; and this was adjudged for the Plaintiff, and that the words are actionable. Croo. 1. 345.

Case 309.

Action for this, Thy Father is a Thief [Innuendo the Plaintiff. After verdict for the Plaintiff it was adjudged against him, for that it was not alleged in the Declaration to be spoken to the Son, &c. and it was adjudged against the Plaintiff, and the Innuendo will not help. Croo. 1. 65. Co. B. Phelps and Lane. See before Case 275.

Incertainty in the person.
Innuendo.

Case 310.

In the Case of Eaton and Ayloff, Croo. 1. 78. Co. B. The Court declared, That this Action will not lye for calling of one Cuckold, or Whittal, or saying, That he had laine with the wife of A. Quean, or tainted Quean; or for saying of a Parson. He is a Hedge-Priest. See Croo. 1. 247. Gobbers Case. That it lyeth not for calling of one Cuckoldly-Knave, or cheating Knave. See before Case 29.

Cuckold.
Whittall.
Quean.
Hedge-Priest.
Cuckoldly
Knave,
Cheating
Knave.

Case 311.

Action for this, said of a Woman to a Woman, that whereas there was talk between the Defendant and I. S. of the said A. and B. the Plaintiff, the Defendant said these words of A. and B. A. hath stoln such goods, and shee [Innuendo the Plaintiff was privy and consenting thereunto; after verdict for the Plaintiff, it was moved in arrest of the Judgement, for that it is incertaine to which of them She shall refer; but it was adjudged for the Plaintiff, and held that the words shall be referred to A. and not to B. Singula singulis; and that shee was privy and consenting to the stealing of goods is actionable. Croo. 1 part. 171. B. R. Mot and his Wife, and Butler.

Charge of Theft.

Charge of consenting to theft

Case 312.

Action for this by an Attorney, Thou art a Knave, and stirrest up Sutes between Parties, and stirrest up a Suit betwixt such Parties to their undoing, and it is a great pity such Persons should goe unchanged; adjudged for the Plaintiff that the Action lyes. Croo. 1. 166.

Slander of an Attorney.

Case 313.

Action for this, Hee was arraigned at Warwick for stealing of twelve Hogs, and if he had not made good friends it had gone hard with him. Ubi re vera, hee was never arraigned, nor questioned for any felony; it was held by all the Judges seriatim, that the words are actionable, and it was after verdict, and motion to stay the Judgement, adjudged for the Plaintiff. But that if the words were, Thou wert arraigned for two Bullocks, or perhaps if the averment had not been added, the words might not be actionable, and it was said to be adjudged for this, Thou wert in Norwich Gaol for a Robbery committed on I. S. with an averment, that he never was in any Gaol for felony. See the Case, Croo. 2. 247. It was adjudged for the Plaintiff, but there is no such averment in the Case as is here mentioned. Croo.

He was arraigned for stealing, &c.

Averment.

Thou wert in a Gaol for a Robbery &c. Averment.

1. 195. Hally and Stanton. and in Cro. 2. 155. Showell and Haman, Pasche. 5. Jac. B. R. an Action was brought for this, Thou hast been in the Gaol for stealing of a Pan, and it was held that the Action well lay. And in Cro. 1. last publishr, 279. Baily and Churringtons Case is this. The Action was for this, Thou wast arraigned for two Bullocks, and it was adjudged, that the words were not actionable, for he doth not say, He was arraigned for the stealing of two Bullocks, which words had been worse, and yet not actionable, for a man may be arraigned for felony, and yet be no felon, and in Hobb. Rep. pl. 196. is this Case. Action for this, Hee is in Warwick Gaol for stealing of a Mare, and other Beasts; and after verdict and motion to arrest the Judgement, it was held by all the Judges seriatim, that the words were not actionable, for it is no direct affirmation, that he did steal, as to say he stole them, and was in Gaol for them; but a report of his imprisonment, Steward and Bishops Case. See after Case 386.

Case 314.

Slander of a
Midwife in her
Profession.

Action for this, said of a Midwife about her profession, Many have perished for her want of skill; it was adjudged for the plaintiff, and held, that the words were actionable. Cro. 1. Flowers Case. 153.

Charge of in-
continency, loss
of a Marriage.

Action for this, That whereas he was in treaty with such a Woman of good estate about a Marriage, that the Defendant, to hinder him, &c. spake thus; Southold hath been in bed with Dorchesters Wife, whereby hee lost his marriage; after a verdict for the plaintiff, and motion to arrest the Judgement, it was held that the words were actionable, because of his loss, and the plaintiff had Judgement. Southold and Daunston, Cro. 1. 195.

See the like Case adjudged between Hawkins and Bilhead, 11 Car. B. R. Cro. 1. 292. And the like Case for a Widow, for slanderous words spoken of her, whereby she lost her Suitor. Dame Morrison and Cade. Cro. 2. 162. And againe, Cro. 2. 323. Matthew and Crosse. Trin. 11 Jac. B. R.

Case 315.

Charge of
Theft.

Action for this, That the Defendant Ex malicia upon the plaintiffs wife, crimen felonix impoluit, and caused her to be brought before a Justice of Peace; and also &c. maliciose said before him, that he charged her with Felony for stealing of a Hogge from one H. and required her to be bound over, &c. and it was adjudged for the plaintiff, Manning and his Wife, and Fitzherbert. Cro. 1. part 1. 97. See Cro. 1. 116. Topfall and Edwards the like Case.

Charge of pro-
curing Perjury,
and Forgery.

Action for this, Thou hast given I. S. nine pounds for forswearing himself in Chancery, and hast hired him to forge a Bond. It was adjudged for the plaintiff.

So for this, Thou hast procured one Smith to come thirty miles to commit Perjury before my Lord of Winchester, and hast given him ten pound for that purpose. Harris and Dixon. Cro. 2. 10. See Case 274.

Case 316.

Slander of a
Lawyer.

Action for this said of a Lawyer, He is a Dunce, and will get little by the Law; he was never but accounted a Dunce in the Middle Temple. It was adjudged for the plaintiff, and that the words are actionable. Peard and Jones. Cro. 1. 278.

Case 317.

Charge of theft
indirect.

Action for this said to the Brother of the Plaintiff, Thy Brother was whipped about Taunton Cross for stealing of Sheep, or burned in the hand or shoulder, After a verdict for the plaintiff, and a motion to arrest the Judgement, it was adjudged for the defendant for the uncertainty of the words. Surley and Hill. B. R. Mich. 8 Car. Cro. 1. 206. See before Case 275.

Incertainty.

Case

Case 318.

Action for this, said in London, Hee is a Pimp, and a common Pimp, and notorious, which hee would justifie. After verdict for the Plaintiff, upon a motion to arrest the Judgement, it was stayed. Croo. 1. 286. Dy-mock and Fawcer, B.R.

Pimp.
Common Pimp.

Case 319.

Action for this, Shee is a Witch, and a strong Witch; after verdict for the Plaintiff, upon motion to arrest the Judgement; it was held, the words were not actionable, and adjudged for the Defendant, B. R. Mich. 8. Car. 1. John George and his Wife, and Harvey, Croo. 1. 205, and 236. And there all the Judges held, that the Action will not lye for calling of one a Witch, without alledging of some Act done. See after Case 323. 338.

Witch, and
strong Witch.

Case 320.

Action for this, Thou didst violently, upon the high way, take my purse from mee, and four shillings two pence in it, and didst threaten to cut me off in the midst, but I was forced to run away to save my life. It was held, the words were actionable, and adjudged for the Plaintiff. Lawrence and Woodward, Croo. 1. 292. See before Case 91. 108. 149. 151. 154. 160. 174. 250.

Charge of
Robbery.

Case 321.

Action for this, Thou art a long shag-haired murdering Rogue. It was held, the words were actionable, and it was adjudged for the Plaintiff. Green and Lincoln, Croo. 1. 232. B. R. Mich. 9. Car. 1.

Charge of
Murder.
Adjective
words.

Case 322.

Action for this, Hang thee Bawd, thou art worse than a Bawd, thou keepest a house worse than a Bawdy-house; and keepest a Whore in thy house, to pull out my throat. It was held, the words were actionable, and adjudged for the Plaintiff. Peirson and his Wife, and Gooday, B. R. 9. Car. 1. Croo. 1. 239. See Case 103. But see for this, Chap. 14. sect. 4. chap. 20. sect. 3. chap. 21. sect. 3.

Murdering
Rogue.
Bawd and
Bawdy-house
charged.

Case 323.

Action for this, Thou art a Witch, and I will make thee come and fave, God save my Mare: I was forced to get my Mare charmed for thee. After verdict for the Plaintiff, upon motion to arrest the Judgement, it was stayed, until 6c. Croo. 1. 233. Broxon and Dager. Mich. 9. Car. 1. Croo. 1. 233. See Case 319. 338.

Witch.

Case 324.

Action for this, whereas such a one was delivered of a Bastard child, the Defendant speaking of it, said, That hee, knowing, the Plaintiff, is the reputed Father of it; and upon not guilty, and a verdict for the Plaintiff, he had Judgement in the Common Bench. And a Writ of Errour was brought, and it was reversed, and held, that the words are not actionable, unless hee have any special damage, or that it be such a Bastard, as is like to charge a Parish, or the like. Croo. 1. 232. Salter and Brown, B. R. Mich. 1. Hill. See before Case 177.

Charge of In-
continency.Spiritual Stan-
der.

Case 325.

Action for this, said of one that is the Son of a man rich in Lands and Goods, and in hope of part of it, Hee is a Bastard; and it was held action-able, without averment of any special damage. And a Judgement affirmed in a Writ of Errour, was given in the Case. Croo. 1. 237. Hinfrevill and Stanfield, Pasche. 13. Car. 1. B. R. And after Croo. 1. 213. in the Case of Vaughan and Ellis. Mich. 6. Jac. B. R. In case only, where one had but a possibility and hope for which hee was offered some considerable re- compence, and by this slander lost it; the words were adjudged actionable.

For calling of
one Bastard.

Averment.

and the Judgement was affirmed in a Writ of Error. See Croo. 2. 323. And see before Humtreys and Studfields Case. Case 78.

Case 326.

Charge of cou-
zening on a
Trades-man.

Action for this, brought by a Fraⁿ-man, and Trades-man in London, Thou art a Cheater, and hast cheated my Husband of five hundred pound. And it was held, that the words being not spoken of his Trade, are not actionable. And it was adjudged for the Defendant. Needler and Symnell. Mich. 11. Car. 1. B. R. Croo. 1. 301. See Case 261.

Case 327.

Charge of cou-
zening upon a
Merchant.

Action for this, brought by a Merchant, That hee was a cheating Knave, and had cheated his Father by returning twenty pound for wares, &c. And it was held, the words were actionable, and the Plaintiff had judgement, Croo. 1. 398. Arundel and Marc, Trin. 15. Car. 1. B. R. See Case 261.

Case 328.

Welsh Theef.
Welsh Jade.
Welsh Rogue.
Welsh Whore.

In the Case of Pew and Jefferies. B. R. Pasche. 12. Car. 1. It was held, that this Action will lye, for calling one Welsh Theef; but not for calling of one, Welsh Jade, or Welsh Rogue, or Welsh Whore. Croo. 1. 329.

Case 329.

Charge of Per-
jury.

Error of a Judgement in the Common Bench, for this, Thou art forsworn in a Court of Record, and that I will prove. And Judgement there given for the Defendant; it was reversed, the words held actionable, and Judgement given for the Plaintiff, Banco Regis. Ceely and Hoskins. Mich. 14. Car. 1. B. R. Croo. 1. 366.

Case 330.

Slander of an
Attorney.
Cheating.

Action for this, by an Attorney, spoken about him in his office, Hee is a very base Rogue, and a cheating Knave, and doth maintain himself his wife and children by his cheating; and it was adjudged for the Plaintiff, in Co. B. but by a Writ of Error, brought into the Kings Bench, and there it was affirmed. Pasche. 14. Car. 1. B. R. Croo. 1. 371.

Case 331.

Charge of
murder.

Action for this, Thou art a Rogue, and a Rascal, and hast killed thy wife. [quodam Elizabetham nuper uxorem le Plaisie Innuendo] upon not guilty, it was found for the Plaintiff, and moved in Arrest of Judgement, that the words were not actionable, because it was not shown, that the wife was dead, nor how she was killed, nor that she was violently killed. But it was held, the words were actionable; for where it is said nuper his wife; it shall be intended she is dead, and thou hast killed her, shall be intended according to the vulgar acceptance. And it was adjudged for the Plaintiff. Wilner and Hold. Trin. 15. Car. 1. B. R. Croo. 1. 358.

Case 332.

Slander of an
Officer.

Action for words, whereas he was a Deputy Clerk under a Register to an Archdeacon, and received others fees by the Office, and was to account for them, that the Defendant speaking of him; and his Office, intending to deprive him of his place, and to bring him in the displeasure of his Master, said of him, that hee is a base couzening Knave, hee is a Cheater, and hast couzened his Master [the said A. B. Innuendo] It was adjudged for the Plaintiff, and all the Court held the words actionable, and that it shall be intended, that they were spoken concerning his Office. Reynolds Case. Trin. 15. Car. 1. B. R. Croo. 1. 406.

Case 333.

Action for words, that such was in presencia & auditu quamplurimum subditorum Domini Regis, hee spake, &c. Thou art a Theef, and hast

hast stoln my corn. After verdict, and motion to arrest the judgement, it was held by the Court,

1 That the Declaration was good in presentia, &c. albeit it may be Declaration.
some of them might not understand the language.

2 Albeit it be said, that he spake the words of the Plaintiff, Thou, &c. which must be to the Plaintiff, yet it was good enough, for being spoken to, they are spoken of him first, and it is all one.

3 That it shall be intended reaped Corn. And therefore that the words were actionable, and judgement was given for the Plaintiff. Croo. 2. 39. Mich. 2. Jac. B. R. Kellur and Menasby.

Action for this, Thou art a theevish Knave, and hast stoln my wood. After verdict for the Plaintiff, upon not guilty, and motion to arrest the judgement, it was held by three Judges, the words were not actionable, and adjudged against the Plaintiff for the Defendant. Robbins and Hildredon. Pasche. 3. Jac. B. R. Croo. 2. 65. Charge of Theft of wood.

Action for this, Thou hast stoln my wood. It was demurred in Law, whether the Action lay, and adjudged without Argument for the Plaintiff. Loe and Sanders. Trin. 5. Jac. B. R. Croo. 2. 166. Theft of wood.

Action for this, Thou art a Thief, and hast stoln Master Saint George his Tree. It was adjudged for the Plaintiff after verdict, and motion to arrest the judgement. Minors and Leeford. Hill. 3. Jac. B. R. Croo. 2. 114. Theft of Lead;

Action for this, Thou hast robbed the Church [Innuendo, the Church of St. Alphage: and thou hast stoln the Lead from the Church, Innuendo, the Church of St. Alphage aforesaid, upon not guilty pleaded, it was adjudged for the Plaintiff, two Judges being against the judgement. Benson and Morley. Pasche. 5. Jac. B. R. Croo. 2. 153. Theft of Lead;

Action for this, Thou hast stoln my corn, and carried it to Market; and upon motion to arrest the judgement, after a verdict, because the words are not actionable, the Court held it otherwise, and it was adjudged for the Plaintiff. Croo. 2. 442. Mich. 15. Jac. B. R. Turnor and Champion. Theft of Corn.

Action for this, Thou hast stoln as much corn out of my fields, as is worth nine shillings, or ten shillings, After a verdict, the Court doubted, and did not give judgement. Ellis and Fitch. Hill. 15. Jac. B. R. Croo. 2. 457. See before Case 304. 305. and after Case 341. 346. Case 334.

Action by a Justice of Peace for this, Kempe is a Basket Justice, a partial Justice; I will give him five pound a year for his gifts for Justice matters. It was held by the Court, that for the word partial Justice, and not for any of the rest of the words, the Action will lie. Kempe and How. Croo. 2. 90. Mich. 3. Jac. B. R. Justice of Peace slandered.

And so for this, You are a sweet Justice, you sent your Warrant for J. S. to be brought before you for suspicion of Felony, and afterwards sent J. D. to him, to give him warning thereof, that hee might absent himself. It was adjudged for the Plaintiff, and that the words are actionable. Burton and Tokin. Hill. 4. Jac. B. R. Croo. 2. 143.

And so for this, that whereas he had upon Articles exhibited, bound another to appear at Sessions, &c. That thereupon he spake thus, By your means I had wrong at the Sessions, for you caused Hickman to swear against mee, a thing that was not true; Innuendo, the last Day. And so was adjudged for the Plaintiff. Croo. 2. 308. Sir Walter Chetwold and Meeston. M. 10. Jac. B. R.

And so for this, said of him, Hee hath forged a Recognizance taken before Fisher and others. It was adjudged actionable. Chicheley and Barker.

Barker. Pasche. 44. Eliz. B. R. Croo. 1. part last publisht. 883.
Case 335.

Incertainry in
the Person.

Endeavour to
Murder.

Incertainry.

Declaration.

Innuendo.
Declarat.

About Perjury.

About Witch-
craft.

Charge of
Robbery.

I doe charge
thee with Fe-
lony.

Action for this, pretended to be said of the Plaintiff. My Brother [pre-
fat querend. Innuendo] is Perjured, and upon not guilty pleaded, it was
found for the plaintiff; and upon motion to arrest the Judgement, it was
held, that there appearing to the Court no other Brother, and it being a-
verred to be spoken of him, and so found by the Jury, it was well enough;
and it was adjudget for the plaintiff; and there this Case was said to be ad-
judged. That miscreous Knave Stroughton lay in wait to murder me; and one
Tho. Stroughton sued upon them, and had Judgement, after upon not guilty
he got a verdict for him. Croo. 2. 107. Wiseman and Wiseman. Hill. 3 Jac.
B. R. See Case before. 275.

Case 336.

Action for this the Defendant. Hec falsa & scandalosa verba sequentia dixit,
& publicavit, (viz.) Mr. Price, you doe my Lord Burleigh wrong, that you
doe not apprehend Jeremy Johnson [Innuendo the Plaintiff] for a Felon,
and seize his goods, for he [Innuendo the Plaintiff] hath stohn a Sheep from
Wright of Kirsby, [Innuendo John Wright, upon not guilty pleaded, and a
verdict for the plaintiff, it was adjudged against him, with the Defendant,
because it is not alleged in the Declaration, or writ, to be spoken of the
Plaintiff, but only in the Innuendo; and the Innuendo, without an expresse
allegation that the words were spoken of the plaintiff, will not maintaine
the Action. Johnson and Sir John Aylmen, Croo. 2. 126. See Case be-
fore. 275.

Case 337.

Action for this, Arthur Colome is a forsworn man, and hath taken a false
Oath in his deposition at Tiverton, where he waged his Law against me. It
was adjudget for the plaintiff, after motion to arrest the Judgement. Co-
lomes case. Croo. 2. 204. See before Case 250.

Case 338.

Error in the Exchequer Chamber, of a Judgement given in the Kings
Bench for this, Thou art a Witch, and that I will prove, I have seen thy Images
or Spirits in the night, & thou didst bewitch my childe. Judgement being gi-
ven that the words were actionable it was assigned for error, that it lay not,
and of that opinion were all the Justices and Barons. For to say, Thou
art a Witch, hath been often adjudged not to be actionable, and the addi-
tional words are but matter of fancy, &c. wherefore the Judgement was
reversed. Lloyd and Cook, Pasche. 14 Jac. B. R. Croo. 1. 399.

Action for this, (Thou art a Witch, and by thy means I have lost my Marc.)
And it was moved in arrest of Judgement that the words be not actionable,
for they are too general; and of that opinion was all the Court (absence
Mortuaguo) and gave Rule, that Judgement should be entred for the De-
fendant. Hawks and Awge. Pasche. 17 Jac. B. R. Croo. 2. 531. See Croo.
2. 600. Martin and his Wife, and Studling. M. 12. Jac. B. R. the like o-
pinion of the Judges. See Croo. 531. Oliver and Steaphens. Pasche
17 Jac. B. R.

Case 339.

Action for this, Thou didst set upon me, and rookest away my Purse with
twenty Marks in it; goe with me before a Justice of Peace, I will charge thee
with Felony. It was adjudget that the Action well lay; and thereupon Error
brought in the Exchequer Chamber that the words were not actionable.
All the Judges and Barons agreed, that the words are very slanderous, and
very actionable; as I doe charge thee with Felony, wherefore the Judgement
was affirmed. And yet in Croo. 2. 315. Holland and Stoner. Mich. 10 Jac.
B. R.

B. R. The Case was Erroꝝ of a Judgement in the Kings Bench in an Action foꝝ these woꝝds, Thou art a lewd Fellow, thou didst set upon me by the High-way, and take my Purse from me, and I will be sworn to it; and the Erroꝝ was, that the woꝝds were not actionable, foꝝ he doth not charge him with Felony, noꝝ with Robbing of him, oꝝ any felonious taking away his Purse, foꝝ it may be hee took it in jest, oꝝ foꝝ some other cause, and it is not any direct slander; and of that opinion were all the Judges and Barons, wherefoꝝe the Judgement was reversed, But foꝝ this, see before, Case 302. 315.

Case 340.

In the Case of Jacob and Mills. Pasche. 11 Jac. B. R. An Erroꝝ was assigned foꝝ these woꝝds in the Declaration, viz. Hee hath poysoned I. S. [Quendam I. S. aduinc defunct. Innuendo] because hee did not aſſer he was dead at the time of speaking the woꝝds; (foꝝ Aduinc referres to the time of the Declaration); And it was the opinion of all the Judges and Barons that it was erroꝝ. Croo. 2. 343.

Charge of Poysoning.

Averment.

Case 341.

Action foꝝ this, Thou art a Bankrupt Rogue, and accounted a common Knave, and thou art a Thief, and hast stoln my Corn. To the first woꝝds, Thou art a Bankrupt Rogue, and accounted a common Knave; The Defendant pleaded not guilty, and to the last he justified. And both found aſſesment; damages foꝝ the first twelve pence, and foꝝ the last thirty nine shillings, and costs foꝝ both; the plaintiff having Judgement foꝝ both, was foꝝ this cause reversed, foꝝ the first woꝝds are not actionable, the plaintiff being neither Merchant nor Tradesman. And the Judgement being entire, it is reverſable in toto, foꝝ in the Judgement the damages are joyned, that are severed in the verdict, Croo. 2. 424. Pasche. 13 Jac. B. R. Lloyd and Peirce.

Rogue.
Charge of
stealing Corn.

Bankrupt.

Damages.

Case 342.

Action foꝝ this, Thy Master Brown hath robbed me of all my goods; and verdict foꝝ the Plaintiff, it was moved in arrest of the Judgement, that it was not actionable foꝝ the uncertainty of the person; but it was adjudged foꝝ the Plaintiff, foꝝ it is said he spake it of the Plaintiff, and a man shall not be intended to have more Masters than one; but agreed, that if one say to I. S. Thy Son hath robbed me, a Son cannot bring an Action, but hee must aſſer he had no more Sons. But if one say to a Son, Thy Father, oꝝ to a Wife, Thy Husband hath robbed me, the Action will lye foꝝ the Father oꝝ Husband, without any such averment. Croo. 2. 443.

Uncertainty in the person.

Averment.

Case 343.

The Defendant was arrested by a Warrant upon a Latitar, directed to the Sheriff of Midd. and the Defendant spake these woꝝds, This is a counterfeit Warrant made by Mr. Stone [Innuendo the Plaintiff had forged the Warrant] and after verdict foꝝ the Plaintiff, and motion to arrest the Judgement, that the woꝝds were not actionable, it was adjudged otherwise, and foꝝ the Plaintiff. Stone and Smalcombe, Mich. 20 Jac. B. R. Croo. 2. 648.

Charge of Forgery.

Case 344.

Action against two, foꝝ this spoken by them, Thou hast the Plate of I. S. and we will charge thee with that Felony. After verdict foꝝ the Plaintiff, it was moved in arrest of Judgement, that the Action lyes not jointly against them, foꝝ the speaking of one, is not the speaking of the other, but they must be severally charged. And it was thereupon adjudged foꝝ the Defendants. Chamberlaine against White and Goodwin, Mich. 20 Jac. B. R. Croo. 2. 647.

Words spoken by two.

Charge to
maintain
theeves.

Case 345. Action for this, that whereas the Master of the Defendant, Sir William Ayliffe was robbed of goods by persons unknown; the Defendant said, Thou art a Maintainer of Theeves, to steal my Masters goods, Innuendo; the goods of the said Sir William Ayliffe, who was robbed. And albeit he did not say, that he maintained them in the Felony, yet knew them to be Theeves; it was adjudged for the Plaintiff. And this said to be adjudged actionable, Thou maintainest Pirates, who rob upon the Seas; Bennet and Tabram. Hill. 19. Jac. B. R. Croo. 2. 629. See *Case 289.*

Case 346.

Charge of
Theft

Action for this, that the Defendant said of the Plaintiff, Hee [Innuendo, the Plaintiff] is a Theef, for hee hath stoln corn from Mr. Key, [quidam Richardum Key; Innuendo] And after verdict for the Plaintiff, it was moved in arrest of judgement, that it was not actionable, for hee doth not shew that there was any talk about the Plaintiff, and without this it cannot be applied to him; and it shall be taken for standing corn, yet the Plaintiff had judgement, and that judgement affirmed in a Writ of Error. And there it was agreed by the Court, not to lye for this; Hee is a Theef, for hee hath stoln my Trees, or my Evidences, or my Lead off my house; and they held this actionable, Hee is a Theef, for hee hath stoln my corn; and therefore that the Action here was maintainable. And so to say, Thou hast stoln my Wood; and the Court held the Declaration good, saying that the Defendant spake these words; and the Jury having found it for the Plaintiff. And a judgement was cited to be had before in the like case, and affirmed by a Writ of Error. Smith and Ward. Co. B. Mich. 21. Jac. Croo. 2. 673. See *Case 333.*

Case 347.

Charge of
Theft.
Adjective words

Action for this, that the Defendants Wife spake of the Plaintiffs Wife, Thou art a Theevish Rogue, and a theevish Quean, for thou hast stoln my Faggots [Innuendo, five Faggots of the said White, and his Wives] and upon not guilty pleaded, and a verdict for the Plaintiff, it was moved in arrest of judgement. For the first words are adjectively spoken, and a Feme Covert can have no goods; yet the words were held actionable, and it was adjudged for the Plaintiff. Stampe and his Wife, against White and his Wife. Croo. 2. 600. And in Pasche. 34. Eliz. B. R. Charnels Case. Action was brought for these words, said by a Wife, My Turkies are stoln, and J. S. hath stoln them. And it was adjudged for the Plaintiff, against the Husband and Wife. Croo. 1. part last publishr. 279.

Case 348.

Charge of Per-
jury.

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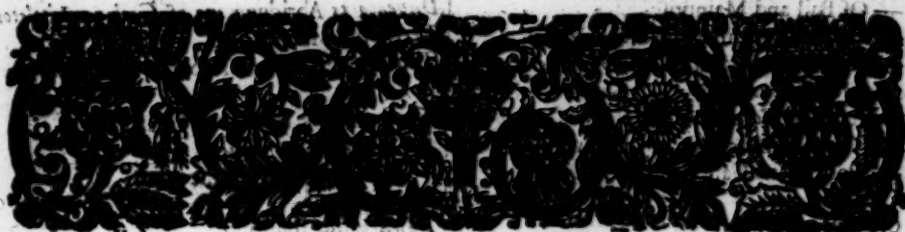
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